USDA'S COMMODITY PROCUREMENT PROCESS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EXPORT OPPORTUNITIES AND SPECIAL SMALL BUSINESS PROBLEMS

OF THE

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USDA'S COMMODITY PROCUREMENT PROCESS

TUESDAY, APRIL 28, 1981

House of Representatives,
Subcommittee on Export Opportunities
and Special Small Business Problems,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2359-A, Rayburn House Office Building, Hon. Andy Ireland (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN IRELAND

Mr. Ireland. I call the subcommittee to order. This morning our subcommittee will conduct the first of five hearings on the role of small business in the U.S. Department of Agriculture's commodity procurement process. We intend to find out if small business is allowed to compete effectively and fairly in the procurement process.

Complaints to the subcommittee have indicated that small business is all but shut out of the Federal commodity process in both production and processing areas.

During today's session and tomorrow's meeting we will hear from Members of Congress, school board members, school food service directors, and small businessmen. We will not only hear that small business is being treated unfairly, but also that we may be faced with substantial waste and abuse of taxpayers' dollars in the present system.

Then on May 13 we will meet again to hear from witnesses who will offer a different perspective. After the subcommittee has had a chance to study these 3 days of testimony, we will then call upon the Department of Agriculture.

The Department of Agriculture each year spends hundreds of millions of dollars to buy foods for the various programs they oversee. While various programs have food donated directly to them, a majority of the food goes to the national school lunch program. The USDA says 20 percent of the school lunch program consists of donated foods. Others point out that some luncheon entrees consist of 50 percent or over 50 percent of donated foods.

The USDA purchases food either at market prices under surplus removal or price support authority. It is up to the Secretary of Agriculture to declare a surplus. They have their own system of purchasing, processing, storing, distributing and handling the foods.

In addition to all these USDA's expenses—obviously expenses to the taxpayer—the individual States and school districts also have to store, handle, and pay transportation costs. The distribution process appears to be a jungle as handled by the USDA, compared to the typical distribution setup in our free enterprise system.

We have an example on our chalk board here that Pat Reese from the subcommittee will point out for us—the processing, purchase, and production of turkey-cheese sandwiches under the USDA commodity program. First, as you can see, the cheese was purchased in Wisconsin. It was then sent to Kansas where the Federal Government stored it and aged it. When it had been properly aged, it was sent to Illinois and processed and packaged. From Illinois the cheese was sent to State warehouses in Pennsylvania where it met up with turkeys that had been purchased in Arkansas and flour that had been purchased in Minnesota.

All these items then moved on to the local school district warehouses. Here the turkeys departed—strangely enough—and went to New York, where they were made into luncheon meat. Meanwhile the cheese and flour had also left and gone back to Wisconsin to await the turkey lunch meat from New York.

When the turkey arrives at a processor, the processor takes the flour and some cheese and some other ingredients and presto we have turkey-cheese sandwiches.

They are then shipped back to the Pittsburgh warehouses and then to school lunchrooms. Small wonder that the same sandwiches could be purchased cheaper locally, not only in base price, but with less redtape, storage, handling, et cetera on the part of the local schools. Many questions occur to us.

If 80 percent of the school lunch program results in local procurement, why do we have a system that creates nightmares in the other 20 percent?

Cannot foods be purchased cheaper at the local level using traditional business sources and particularly the small businessman?

Do we need all these warehouses? In any energy conscious era, what about all the transportation costs in the distribution system of this kind? Who gets the USDA's bid? Can you bid on an item on any amount less than a railroad carload lot? We have found that, apparently, infrequently you can't. How come most commercial meat processors sell ground beef in 10- or 15-pound tubes, yet the USDA demands that beef be produced in 55-pound frozen blocks? Why do they buy raisins in less than 2-ounce boxes wrapped in cellophane, and not in bulk? Obviously we could go on with the examples, but I will stop here. We have a lot of testimony to sort through and we have a lot of questions.

We also do not want to overlook what many have said to us privately, which is that the school lunch program can be maintained and that we can continue to feed millions of children daily, and yet at the same time cut the budget. This can be done by changing the system, eliminating waste and abuse, and allowing small business a greater share of the system.

Do any of the other members here have a statement?

Mr. **Weber**. No thank you, Mr. Chairman. I am very interested and I am happy to be here and I am anxious to hear the witnesses.

Mr. **Ireland**. Thank you. Our first witness this morning is Representative Bill Goodling from Pennsylvania, a member and colleague who has spent a great deal of time and effort in analyzing and dealing with the school lunch program. Bill, we are delighted to have you here.

TESTIMONY OF HON. WILLIAM F. GOODLING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. GOODLING. Thank you, Mr. Chairman. I will not read my printed statement that you have and I would hope that you would have an opportunity to look at it in depth and also the attachments to it that talk about very interesting things that happen in our school lunch program: "USDA Begins Testing Cans for Worms"; "School Lunchrooms Warned of Possible Worms in Peas"; "Pest-Infested School Food Confiscated"; et cetera.

Let me merely say that when I came to Congress 7 years ago, it was after having been a teacher, principal, and school superintendent for 23 years, and one of the things that bothered me most when I was in the school business was the horrendous waste in the whole school lunch program—not in the part that is handled locally, but rather in that part of the program associated with the Federal Government commodity program. And so I was determined that I was going to change that system. So I advocated a cash in lieu of commodities program for the Nation. Of course, you are aware that the State of Kansas currently has a very effective cash-in-lieu program. My name wasn't Bob Dole and I didn't win in subcommittee. In fact the only vote that I got at that time was my own.

However, I am happy to say that 6 years later I had enough sense to join up with Congressman Bill Ford and we presented a letter of credit in lieu of commodities, during the last Congress and we came out with a tie vote in full committee. Now that is tremendous progress from one vote to a tie vote. There is no question in my mind that changes in the Education and Labor Committee have taken place this year and that we may have another opportunity to change the current inefficient commodity distribution system.

Why am I so concerned about making this change? Primarily because, first of all, you have to understand that 80 percent of all the food is purchased locally by school food service directors from a lot of small businesses. It is fresh. It is what the schools want. It is what the children need. The other 20 percent comes from the Federal Government as commodities. Unfortunately, the Federal Government must bid then purchase and—as you very graphically showed—distribute the commodities either to State facilities or to food processors for further refinement into usable food forms. All of the extra storage, transportation, and reprocessing adds costs which are paid for by local schools. I have heard that story many times.

The amazing thing about this whole process is that 6 or 7 years ago I could hardly get any school food service people to agree. They always agreed when they talked to me. They always complained about getting all their turkeys in May, having to find some place to store them until September; about getting all the peanut butter that they didn't need or the butter, et cetera; and having to pay to store that; having to pay to send it out and get it reprocessed and bring it back. But the leadership of their national organization would never permit them to come forth and talk about that in committee. Last year that broke down and many, many school food service people now realize that they have to stop complaining about the system, on the one hand, and then say that we cannot change the system, on the other hand. And so when it gets to the local school district, of course, all sorts of things have happened in order to increase the cost, including their own transportation system. It is an amazing story and again you will have people who will testify that that cannot be changed. They will have their lawyers here to tell you that because they are protecting, of course, their interest.

I believe that we can save a considerable amount of money on the Federal level and also on the local level, and also provide better food to youngsters. We are going to have to do that this year if in fact we are going to keep the school lunch program intact. It is my belief that we cannot keep it intact with the proposal that is before us now, unless we make some of these changes, because we will lose the paying customers which in turn will close the school lunch program which is not mandated in the first place.

We would propose this year that we have a commodity allowance and that for the 20 percent of the program which is in the form of donated commodities, we could substitute a commodity allowance system. We realize USDA must have some control in case we get any surpluses in any particular area, so we are basically saying that USDA would continue to determine that there are products schools can buy and that USDA can establish a timeframe in which the products can be bought. The products can be purchased locally through normal channels of distribution. We believe that we will save approximately $30 million on the Federal level and also a great deal of money on the State and local level. In turn, we believe that we will be providing much better food to the youngsters who are participating in the program.

We should not get too worried about this situation because we have seen it happen in Kansas, for instance, where there is strictly cash in lieu of commodity. Over a period of years, the senior citizens have had an option to go away from the commodity program or stay with it, and each year more and more are moving away from the commodity program and going to the cash program. That is also true in child care programs where they are moving away because they have that option.

We believe that it is time now for that last 20 percent to be purchased locally. Because it would be purchased by small local producers, we could provide the best possible food at the right time without all of the additional costs.

Basically, our proposal is this: The time has come to make the change, and in this particular year I think that we are almost going to be mandated to move in the direction of the cash program if the school lunch program is going to survive. Also remembering that if the school lunch program does not survive, your breakfast program and some of your other programs which are tied into that program, such as your free and reduced price lunches are mandated only if you have a school lunch program; so if you lose your school lunch program because you cannot afford it, then you just naturally have lost the opportunity to feed those who cannot feed themselves.

Unless we can make the savings to keep paying customers coming into that cafeteria, you lose the whole program as well as your breakfast program.

Mr. **Ireland**. Can you talk about some of the results of the pilot programs the USDA has conducted?

Mr. **Goodling**. Yes. With that initial effort that I made 6 years ago, we were able to get a few pilot programs and all of those people wanted to continue. Now we picked them as some who wanted to participate and some who did not necessarily want to participate and they took a broad range. All of them wanted to continue that program of cash in lieu of.

Then we were told that that was not a big enough survey. According to the USDA, they really could not tell us very much. Last year we came up with a much larger figure. If I remember correctly we talked about 100 originally. Then USDA told us that was entirely too many. So we compromised although that program has not gone into effect as yet.

I think we have to give the opportunity to save money in the time where we are just pinched at every corner.

Mr. **Ireland**. In the 6 years of agony you have had dealing with the Department of Agriculture, are you inclined to make any comments on whether the problem seems to be in a general area or is it inertia, or what?

Mr. **Goodling**. Well part of the problem, of course, is with the school lunch people who complain all year long, calling you constantly about the horrendous way it is conducted but then come constantly to testify. The whole idea is that if they do not testify that way—because they have been brainwashed to that point—or if they do anything to eliminate the commodity program then their fear is that they wouldn't get the same amount of dollars from the Federal Government.

Now they are finding that they are not going to get the same amount anyway. Probably until we are finished with whatever we are going to do this week and the next couple of months. It is a whole new ball game but basically I would say that they have been very carefully coached by colleagues of mine who feel very strongly the other way.

Mr. **Ireland**. Does the gentleman from Ohio have any comments?

Mr. **Weber**. Congressman, can you explain again the 80/20 portion?

Mr. **Goodling**. At the present time the 80 percent of the food for the school lunch program is already bought back on the local district. That is always my first question to the school lunch person: Do you do a good job with the 80 percent that you are purchasing locally? And they would say, of course we do. Well, then do you not think you are capable enough to purchase the other 20 percent? At this time, 80 percent is already purchased locally. You have to remember that this whole program originally had nothing to do with trying to provide a nutritious meal to youngsters. We say that in the legislation but it has nothing to do with that whatsoever. We had a bunch of surplus we did not know what to do with and somebody suggested that instead of having it go to waste send it to the schools. Consequently we set up a school lunch program. So the other 20 percent has been coming originally with commodities and now many times you go out and purchase those commodities in order to supply them because they do not have the surplus commodities.

Mr. **Weber**. Your legislation would replace the existing system, totally, commodity letter of credit?

Mr. **Goodling**. With a commodity allowance. We have moved from last year's commodity letter of credit which some people said was too much paperwork to an allowance where they have that allowance from the Federal Government to purchase that 20 percent locally. So you have no paperwork. At the same time the USDA still has what they need: An opportunity to unload any surpluses if they do in fact get some because they would say, this is the area in which you should purchase, locally.

What this does you see, is take it off the market before you ever have to get it into a storage facility. You buy it when it is produced. Inevitably, we will get some opposition from the milk producers. There is no question in my mind about that because, of course, they have a real interest and concern. They have a glut on milk products and so occasionally I will lose some of my colleagues who might be inclined, as they may have just done a couple of weeks ago in the subsidy, to vote the other way. I think by taking that step a couple of weeks ago will help to eliminate some of their problems that they have in the industry.

Mr. **Weber**. How would the system of allowances work to target the purchasers to certain kinds of commodity?

Mr. **Goodling**. The USDA would tell them what they may purchase and in what timeframe so that they would still be able to unload—if in case they got any—surpluses.

Now you mentioned raisins. The most unbelievable thing that I can think of occurred last year when you could not buy a raisin and you could not buy peanut butter yet somehow many of the school food service people had raisins and peanut butter coming out of their ears. It is unbelievable how this whole situation operates.

Mr. **Weber**. Well is there any reason why USDA could not say buy milk?

Mr. **Goodling**. Not if they found that to be surplus. And we have a very effective milk program operating now that really helps to take care of our over production.

Mr. **Weber**. Would the schools that are in the rural areas be in favor of this as much as the ones that are——

Mr. **Goodling**. The testimony we had last year, from the small school districts and the rural districts, indicated they would be much happier to do it this way. They are already making these purchase 80 percent, and there is no question that while they are getting that 80 percent, they could also get the other 20 percent. So we went out and got small schools and rural schools to testify because we knew that the book was going to be stacked against us to continue. You know when you start doing something new some people hate to change; as a result we went out to get all of these people to testify and we had stacks and stacks of testimony.

Mr. **Weber**. The system certainly sounds very interesting to me and thank you very much for being here.

Mr. **Goodling**. As I said, we must make a change because we do not have the money to go on with the luxury that we have had in the past.

Mr. **Ireland**. Thank you. Without objection, we will insert your prepared remarks into the record at this point.

[Mr. Goodling's prepared statement and attachments follow:]

PREPARED STATEMENT OF HON. WILLIAM F. GOODLING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

I would like to commend the chairman for holding these hearings and for inviting Congressman William Ford and me to testify. My testimony today focuses on legislation which seeks to alter a costly, inefficient, and outmoded mechanism for delivering food to our nation's school children and providing farmers with price supports and surplus removal. We support the goals of the current commodity program but we recognize that a new, efficient, streamlined and rational system is at hand.

As a former school teacher, principal, and superintendent I have seen first hand the enormous waste that occurs in the present commodity program. During my years in Congress as a Member of the Subcommittee on Elementary, Secondary, and Vocational Education, I have heard repeated examples of waste, excessive transportation, reprocessing and storage costs, and the delivery of undesirable products associated with the current program. These complaints have come from every part of the nation from both large and small school systems. As a result, I have seen attitudes on our Committee change. When I first entered Congress, you could not even suggest changing the current commodity distribution system because of the strength of a strong coalition: Federal and state bureaucrats whose empires were threatened; commodity producers and middlemen who were comfortable with the USDA regulations and specifications for various foods; the leadership of school food service directors who seemed to fear change; and House and Senate members who personally identified with these programs. However, because of the increasing evidence suggesting that this once useful program has now become outmoded, this once formidable coalition has fractured and significant elements of each of the above mentioned groups support altering the program along the lines suggested by Congressman Ford and me.

Mr. Chairman, as you probably know, I along with Mr. Ford have recently introduced H.R. 3077, a bill to streamline the system by which agricultural commodities are made available to local schools. This legislation is an improved version of a similar bill which we introduced during the last Congress along with a list of 26-bipartisan cosponsors (which of course included Chairman Andy Ireland) and which just missed being reported out of the Education and Labor Committee on a tie vote. H.R. 3077 is designed to streamline the system by which agricultural commodities are made available to local schools by establishing a more efficient commodity delivery mechanism. An additional virtue of the proposal is that it is designed to achieve a significant savings at the state and local levels while producing a modest savings at the Federal level.

Currently, school districts rely on U.S. Department of Agriculture (USDA) donated commodities for about 20 percent of their food requirements, with the remaining 80 percent being purchased locally. To supply this 20 percent, USDA buys foods at market prices under its commodity price support and surplus removal programs, and then has these commodities moved to various locations within the States. In addition to the USDA purchase price and initial transportation costs. States and local school districts must pay substantial amounts for warehousing, handling and transporting of these products. The present system of purchasing, processing, warehousing, distributing, handling and storing of these USDA-bought foods operates largely outside the normal channels of trade. These foods move in a separate USDA food system in which there is, at best, limited competition and in which the costs are enormous.

What our legislation would do is replace the USDA national purchase and distribution of commodities with an allowance system to permit local school districts to buy their foods at the local level.

The savings involved can be achieved without any child now eating a school lunch being denied access to the program. These savings can be achieved without any reduction in the number of pounds of price support and surplus agricultural foods moved to these school lunch programs. These savings can be achieved simply by going from the separate expensive and inefficient USDA food system to using the existing private food system to make a share of our agricultural production available to the Nation's school lunch programs.

Use of a commodity allowance system will maintain the role of the Congress and USDA in determining which commodities are in need of price support and surplus removal. It will retain the right of Congress and USDA to determine the amounts of these commodities which should be moved off the market. It will retain the responsibility of the USDA to give the schools help in making them intelligent buyers. Such a system will move at least the same amount of commodities but it will do it in a more efficient amd more timely fashion than the present USDA food system since the private food sector will do the job.

The commodity system will not jeopardize, in any way, the funds which the Congress has approved for commodity assistance to the national school lunch and other programs. These same funds will still be used for commodities. They will still be used for the same price support commodities probably with roughly the same pounds and dollars as now. They will still be used for many of the same surplus removal operations. The dollars and pounds will remain about the same there, too.

A commodity allowance system improves the flexibility that schools and other agencies have. Under a commodity allowance system, the local school lunch programs will be buying 100 percent of their food needs at competitive bid prices from local vendors rather than the present 80 percent. What the school lunch programs had been getting in USDA-bought foods through the expensive and inefficient USDA food system will be replaced by the same commodities bought from local vendors. There would be one extremely important difference—the local school lunch programs could use their allotment of commodities to buy the specified commodities in a form which they can readily use in their programs. They would no longer have the USDA in Washington deciding in what form they should receive their commodities.

Congress over the past few years has steadily provided alternatives to the Federal commodity programs. Food stamps replaced the family commodity distribution program. In the Nation's Elderly Feeding program, local agencies were given the option of receiving cash instead of commodities and are doing so in large numbers. The same holds true for child care programs.

Eliminated from the bill of last year is any reference to USDA deciding and communicating to the states and school districts amounts and quality of purchases. USDA simply says it wants to move a certain commodity; it allocates a certain dollar allowance to provide a producer assist for moving it. School districts are merely directed to report their purchase. This would eliminate the paperwork arguments that were made against the Commodity Letter of Credit proposal of last year. At the same time, it would create a commodity program for school lunch and other programs which achieve its Congressional objective of increasing the use of domestically produced agricultural commodities in these programs. Another improvement over last year's proposal is the inclusion of suggestions made during hearings by the Federal Emergency Management Administration (FEMA) to provide for the availability of assistance during any disaster relief effort. In addition, this bill also provides for a commodity allowance option for summer camps, child care food program, Older Americans Act (State option including cash), and continues from last year the exclusion of the programs for supplemental feeding and Indian assistance.

It should also be noted that Senator Symms has asked the General Accounting Office to do a study of the commodity program costs from A to Z. In this way, we will soon have GAO figures on which to judge the exact extent of the excess costs of the current inefficient commodity distribution program.

Finally, Mr. Chairman, I would like to call your attention to a letter with which I know you are familiar. This is the attachment to my testimony which is a Dear Colleague that Bill Ford and I mailed out last year when we were sponsoring, along with you, a proposal similar to H.R. 3077. This letter and the accompanying news stories detail the waste and bureaucratic mess associated with the current program. I would like to submit that letter and accompanying news articles for inclusion in the subcommittee hearing record.

Thank you for the opportunity to testify and I would be pleased to answer any questions.

[Appendix 1]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 22, 1980.

DEAR COLLEAGUE: We are writing to inform you of another consideration we hope you will bear in mind as you look at the Commodity Letter of Credit legislation, (H.R. 6841) which we and 22 of our colleagues have sponsored.

What we want you to think about is WASTE—the enormous waste that occurs in the present commodity program. This waste amounts to millions and millions of dollars, the full amount of which we will never know because it goes unreported by USDA.

This waste takes many forms. Sometimes it is boxcars of spoiled turkeys, as was reported by the Food Service Director of the Chicago Archdiocese Schools before this Committee last December. Other times it is food destroyed by vermin, as was reported last week in Louisiana, where 2.5 million pounds of USDA flour, macaroni, and potatoes had be to be destroyed because it was infested with rats and roaches—unfortunately, this was discovered after this food was served in the lunch program of some schools.

In another recent incident, it was the recall of 10,000 one-gallon cans of USDA peas in Alabama because of worm infestation—again, only after they had been served to children in the lunch program.

All too often, the waste is USDA-inspired, as in cases where school systems are given a several-years supply of one commodity so that USDA can get it off their hands, as was reported over and over by the 13 school food directors who testified in favor of H.R. 6841 before our Committee. One can only wonder what leads USDA to send the Denver Schools a six-year supply of rice, or the Spartanburg schools $230,000 worth of food at the end of the school year so that it will have to be stored at local expense and risk over the three months of summer vacation.

All this leads rather logically to the biggest source of waste of all—plate waste. I think we have all heard stories of the overflowing trash cans of American's school lunch rooms. I think we were all brought up to clean our plates—to waste not lest we some day want—but can we really blame our school children when so much of what they get is what no one else wants. No one can be expected to accept a steady diet of leftovers, and our school children are telling us something. They are voting with their plates. It's about time we listened to them and stopped using them as a disposal unit for American's leftovers.

H.R. 6841 will do this: It will let local schools buy the food their children want in the form they want it; and it will do this without farmers, because it will buy as much food as the Secretary of Agriculture deems necessary just as is done now.

I hope you will join us in taking waste out of the National School Lunch Program by supporting H.R. 6841.

Sincerely,

WILLIAM D. FORD,
Member of Congress.
BILL GOODLING,
Member of Congress.

[Appendix 2]

[From the Baton Rouge, La., Morning Advocate and State-Times, March 1980]

PEST-INFESTED SCHOOL FOOD CONFISCATED

(By Edward Pratt)

State and federal officials have confiscated some 2½ million pounds of roach and rodent-infested food most of which was headed for school lunch programs.

Some grain delivered to Livingston Parish schools in the past supposedly contained evidence of rodents, a state Department of Education official said. The grain was supposedly shipped there from a food warehouse in Baton Rouge which is used to store school lunchroom food for East Baton Rouge Parish, the official said.

Employees at Warehouse Services Inc. supposedly checked for roach or rodent-infested grain after the Livingston Parish school food service director made her discovery, but they could not find any, said Joan Carter, assistant bureau director for food and nutrition for the state Department of Education.

The FDA has not inspected the Baton Rouge warehouse, Ms. Carter said.

The food, most of it U.S. Agriculture Department commodities, was seized between June of 1979 and March of 1980 on a complaint signed by U.S. Attorney for Louisiana's Eastern District in Shreveport Ransdell Keene.

Officials said about 1.65 million pounds of "rat-gnawed," insect-infested flour was taken from a Shreveport warehouse owned by Baton Rouge businessman Lehman Williamson. Williamson also owns the local Warehouse Services Inc., which stores food for school lunch programs in East and West Baton Rouge, East and West Feliciana, Livingston, St. Helena and Washington parishes, Carter said.

Williamson could not be reached for comment today.

Some 54,000 pounds of bad flour, potatoes and wheat stored in a Calcasieu Parish School Board warehouse in Lake Charles was confiscated, and 530,000 pounds of rotted flour and grain products from an Alexandria warehouse owned by Robert Moore also was taken in the investigation.

Another 168,000 pounds came from warehouses in New Orleans and Natchitoches, the FDA said. Officials said the New Orleans warehouse was owned by State Fire Marshall Dan Kelly. Another seizure was made at a warehouse in Assumption Parish.

The first of the discoveries was made in June of 1979, James R. McCellan, compliance branch director of the FDA district office in New Orleans, said today.

He said FDA investigators probing food stored at the Alexandria Cold Storage Co. found rice and macaroni allegedly containing rodent hairs and excrement.

FDA investigators also found live and dead insects, and rodent-gnawed flour, oats and macaroni commodities stored at Shreveport Warehouse Services, McClellan said.

"Some of the food may have gotten out to the schools before the FDA found out about it," Carter said. She said some of the food may have gotten into several lunchrooms in the Shreveport area.

"We got some complaints from people in the Shreveport area about infested flour" about the same time the FDA made the June seizure, Carter said.

Besides schools, the food is also sent to institutions for the elderly, charitable institutions and some summer camps for children, Carter said.

"Our main problem is that we have too much food and we have to keep it too long."

"The food being shipped in has not gone out of the warehouse fast enough," she said.

The food piled up because many school lunch managers across the state "doubled their orders," Carter said.

"The lunchroom managers told us they doubled their orders so that they would be sure to have enough food. Now they can't take it all and we have to keep it," she said.

"Next year we are going to ask them to give us specific orders," she said.

McClellan said he did not know whether the bad food was found on routine FDA inspections or whether the investigation was prompted by complaints from the public.

McClellan said he could not divulge more information since matters are still under investigation.

[From the Baton Rouge, La., Morning Advocate and State-Times, March 1980]

OFFICIALS DESTROY TONS OF SCHOOL FOOD

(By Edward Pratt)

State health officials Monday seized and destroyed 7 tons of damaged and "rat-infested" commodities being stored at a local warehouse that stored for the East Baton Rouge Parish school lunch system and several surrounding parishes, a state Food and Drug official said today.

Health officials have also cited another local warehouse for some deficiencies at its facility, Dick Cousins said.

The seizures follow reports last week that during the past 10 months state and federal health officials have confiscated some 2.5 million pounds of roach- and rat-infested food from warehouses around the state.

The commodities are United States Agriculture Department foods which are being distributed by the State Department of Education.

Cousins said food and drug inspectors came to Warehouse Services Inc. Monday on a follow up study to see if problems found at the facility in October had been cleared up.

Upon inspection "some of the items appeared to be damaged. There was also evidence of rodent activity . . . and we determined the food could not be salvaged" Cousins said.

Some 7,000 pounds of white rice, 6,125 pounds of brown rice and 25 pounds of dried beans were taken to a local landfill and destroyed, he said .

Besides East Baton Rouge Parish's school lunch system, Warehouse Services stores commodities for shipment to West Baton Rouge, East and West Feliciana, Livingston, St. Helena and Washington parishes, State Education Department spokeswoman Joan Carter has said.

Lehman Williamson, the owner of Warehouse Services, said the commodities seized by the state officials Monday were items that he routinely destroyed when he found problems.

"We try to clear damaged items out of our warehouse all the time when we find it is damaged" Williamson said. "We run a clean operation here."

Cousins also said some 950 pounds of flour, headed for a school lunch program, was seized from the local Imperial Food Supply on March 25.

Besides the flour, more than four tons of other items were seized by the state, Cousins said.

Only the 950 pounds of flour is United States Department of Agriculture commodities intended for school lunch programs, Cousins said.

Imperial Foods has also been asked to do "some general house cleaning" at its facility, Cousins said.

"Yes, they found a couple things we needed to clean up and we are going to do it. We had just about as clean an establishment as anywhere in the state," M. S. DiVincenti, the owner of Imperial Foods said.

DiVincenti also denied allegations that he may have stored some foodstuffs that Livingston Parish School officials claimed were rat-infested several weeks ago. He said Imperial Foods received the * * *.

[From the Baton Rouge, La., Morning Advocate and State-Times, March 1980]

WAREHOUSE OWNER SAYS FOOD CLEAN

(By Edward Pratt)

A local warehouse owner says grain contaminated by rats, which was delivered to Livingston Parish schools recently, was clean when it was picked up from his warehouse by another firm for delivery to Livingston.

"We check all the food we send out and I'm sure the food was good," Lehman Williamson said.

Williamson also disagrees with the findings of federal officials who confiscated 1.65 million pounds of flour from his Shreveport warehouse. The U.S. Food and Drug Administration said it found the flour to be "rat-gnawed" and insect-infested.

Williamson's comments came after reports that during the past 10 months, state and federal officials have confiscated some 2.5 million pounds of roach- and rat-infested food from warehouses around the state.

East Baton Rouge School Board officials said Friday the local school system has not received any infested goods.

"I think we've got it stopped," said James R. McClellan, compliance branch director of the FDA district office in New Orleans. "I believe everybody can relax and eat food in schools in confidence that it's not filthy."

The confiscated food, most of it destined for school lunch programs, was seized on a complaint signed by Ransdell Keene, the U.S. Attorney for the Eastern District in Shreveport.

A state Department of Education official said Friday food service officials in Livingston Parish had complained recently of receiving rodent-infested grain.

However, the owner of the Baton Rouge warehouse that originally stored the food says he is not at fault.

"Another company is under contract to deliver the grain from our warehouse to Livingston Parish." said Williamson, the owner of Warehouse Services Inc. "When we get a supply for Livingston, another company comes here, picks up the food, then takes the food to its warehouse."

"I'm sure when the food leaves my warehouse it is good," he said.

Williamson said he has an electronic system of checking the grain and flour supplies stored at his warehouses.

"We also have a New Orleans chemistry company under contract to inspect our facility and the food before it is sent out."

"We had a complete check of our facility recently and it showed that there was no roach or rodent activities in the plant," he said "The food was not bad when it left here."

The local Warehouse Services also stores food commodities for school lunch programs in West Baton Rouge, East and West Felician, Livingston, St. Helena and Washington parishes, an education official said.

At his Shreveport warehouse, Williamson said the FDA found weevils in his flour.

"The flour had been stored for 12 months and that sort of thing (weevils) will happen when flour is sitting that long," Williamson said.

"The FDA said it found 111 rat pellets in the flour," Williamson said, "but I had the building checked and we did not find any rodent activity."

Besides the 1.65 million pounds of flour confiscated from Williamson's Shreveport warehouse, the FDA seized some 54,000 pounds of bad flour, potatoes and wheat stored in a Calcasieu Parish School Board warehouse in Lake Charles, and 530,000 pounds of rotted flour and grain products from an Alexandria warehouse owned by Robert Moore.

Another 169,000 pounds came from warehouses in New Orleans and Natchitoches, the FDA said. Officials said the New Orleans warehouse was owned by State Fire Marshal Dan Kelly. Another seizure was made at a warehouse in Assumption Parish, an education department official said.

Besides school lunch programs, the food commodities are distributed to institutions for the elderly, charitable institutions and some summer camps for youths.

About 90 percent of the food goes to the school lunch program, Joan Carter, assistant bureau director for the state Department of Education, said.

She explained the Department of Education is the agency which administers distribution of the food commodities from the U.S. Department of Agriculture.

The state leases and operates with state employees two warehouses for foodstuffs in the state—one each in West Monroe and Natchitoches. Commercial warehouse firms are under contract with the state to store the rest of the commodities. Those firms are responsible for unloading the merchandise from boxcars and storing it.

Ms. Carter said food is delivered from the commercial warehouse to the parish school system warehouse, where it is distributed to individual schools.

The education official said Friday over-ordering of commodities by school systems is causing the foodstuffs to pile up and sit in the warehouses.

"When they over-order, it makes us have to hold on to it longer," she said.

[From the Birmingham Post Herald, Birmingham, Ala., Jan. 26, 1980]

SCHOOL LUNCHROOMS WARNED OF POSSIBLE WORMS IN PEAS

(By Bob Dunnavant)

HUNTSVILLE.—School lunchrooms in five northeastern Alabama counties have been advised against serving the contents of cans labeled "USDA Green Peas."

The cans may contain striped green army worms, along with green peas.

The State Department of Education has ordered 10,590 one gallon cans of the peas off the lunchroom shelves in Limestone, Morgan, Marshall, Madison and Jackson counties after students at East Limestone High School were almost served a peas and worm casserole.

Lunchroom workers prepared the green peas without noticing the worms and carried them to a serving line Monday where a server spotted something extra in the dish.

Sarah N. Wooldridge, the lunchroom supervisor, said corn was then substituted for the dish in the lunchroom serving line.

The incident has brought renewed interest in the shipment of 1,765 cases of government supplied green peas to Huntsville last October for distribution to schools in the five county area.

Thomas Ramey of Montgomery, supervisor of food distribution for the child nutrition section of the State Department of Education, said the U.S. Department of Agriculture had already checked the pea shipment last November after similar complaints of worms.

But he said USDA, after opening eight cans of peas at a Guntersville school, found no worms and said an entire shipment of peas to Alabama was fit for consumption.

Ramey said when he received a complaint this week from Limestone County, however, he sent an immediate order to all state schools not to use the peas until the USDA could make another check.

Ramey said he feels that the worm problem is probably limited to the shipment marked KP-68-D10 sent to Huntsville from Oconomowoc. Wis., last fall.

Complaints of worms in the peas were recorded from school systems in Limestone, Morgan, Marshall and Jackson counties last fall and Ramey said yesterday the only complaint since the peas were approved for the lunchroom program has come from Limestone County.

"I'm sure it's not unsafe to eat them, but you don't want to find a worm in your peas."

David W. Neison, Decatur, a state health department environmentalist, said cans of green peas he inspected at the Lacey's Spring school in eastern Morgan County last month contained one to one-and-a-half-inch long green caterpillars that he described as army worms.

He said green pea inventories at that school were removed from the shelves.

Dr. Gene Watson, superintendent of Madison County schools, said none of the contaminated cans has been found at Madison County lunchrooms, but Watson ordered a search for cans bearing the shipment's code numbers. He said he would be sure the green peas were not served in Madison County schools.

Kenneth Lewter, superintendent of Limestone County schools, said he felt fortunate the worms were discovered at East Limestone before they were served to the children.

Ramey said the state received a shipment of up to 14,000 cases, each case containing six one-gallon cans of the green peas last fall.

He said the green peas were supplied by the Oconomowoc Canning Co. as part of the government's $18 million commodity food stuff program for the state of Alabama.

SCHOOLS IN FIVE COUNTIES FIND WORMS IN CANS OF PEAS

(By Christopher Bell)

ATHENS.—Awaiting hungry children at East Limestone School was a nutritiously balanced meal of chicken filet on a bun, green peas, french fries, cinnamon roll—and striped green worms.

The one-inch worms with twin dark stripes, have been found in cans of green peas opened in school lunchrooms in Madison, Limestone, Marshall, Jackson and Morgan counties, State Health Department officials said Thursday.

What remains unopened of 10,590 gallon cans of U.S. Department of Agriculture green peas shipped to public and private schools in the five counties was Thursday ordered removed from kitchen shelves until USDA inspectors return to the counties to check again for contaminated cans.

The State Department of Education issued the same order last Nov. 16 after worms were discovered in cans opened in schools in all five counties, said Thomas Ramey of Montgomery, supervisor of food distribution for the Child Nutrition Section, State Department of Education.

However, USDA inspectors, after opening eight cans at a Guntersville school and finding no worms, said the food "is OK and should be released for program use," Ramsey said. The school systems were notified Dec. 20 to again use green peas, he said.

Earlier this week green peas were placed on the serving line at East Limestone School and a lunchroom server noticed the worms. The green peas were removed and corn substituted, said lunchroom supervisor Sarah N. Wooldridge.

Health department inspectors opened five other cans and found worms in all five, she said.

David W. Nelson of Decatur, a State Health Department environmentalist said he inspected cans of green peas last month at Lacey's Spring School in east Morgan County and found "army worms," which he described as one-inch to 1½-inch green caterpillars.

Nelson said he orderd green pea inventories at the school removed from the shelves, but that it is up to the state Department of Education and USDA to decide what to do with them at area schools.

Ramey said 1,765 cases of green peas, provided by USDA under a federal lunchroom program, were shipped to the Huntsville city school system Oct. 2 for distribution to systems throughout the five counties.

The cases went to the five county school systems and private and public schools in Huntsville, Athens, Guntersville, Arab, Scottsboro, Decatur and Hartselle, he said.

"It's not unsafe to eat," he said, "but you don't want to find a worm in your peas."

Ramey said there were no complaints about other shipments of green peas elsewhere in the state.

Ramey sent notices Thursday to school systems to remove the cans from kitchens pending the USDA inspection.

He said USDA inspectors should be in the area next week.

Limestone County Superintendent of Education Ken Lewter said that "it was fortunate we discovered the worms before they were served to the students."

Faye Walker, director of the nutrition program for Morgan County schools, said their remaining cans were already sent to the various schools.

She said that since the peas were removed from kitchen shelves in November "they have not been used in our schools."

Not for Lunch

No, we're not going into that old business about opening up a can of worms, but reports last week that worms had been found in cans of peas sent to area schools are serious.

Lunchroom personnel at East Limestone School discovered the wormy peas just before preparing the noonday meal. Specialists with the U.S. Department of Agriculture insist that no harm could have resulted if the worms had been eaten. But harmful or not, people don't want to have little striped worms here and there among their peas.

The first report of a problem occurred last fall in Gunthersville when a similar batch of peas was found to have the small caterpillar-like creatures. Inspectors for USDA were called in and sampled the shipment of peas. The inspectors opened eight cans of peas, found no worms and declared the entire shipment of peas to Alabama safe to use.

Using even the broadest level of statistical sampling, the USDA inspectors could have searched a little further and possibly avoided this latest uproar. Opening only eight of 84,000 cans shipped to Alabama is hardly a fair test, either to see if the cans had worms, or even if they were full of anything, including peas.

Quality assurance seems to have been absent in the production of this product. No one wants to eat any food with worms, so the best thing for the USDA would be to simply destroy the remaining stock of peas.

USDA Begins Testing Cans for Worms

(By Christopher Bell)

Athens.—The USDA Tuesday began opening gallon cans of green peas at Limestone and Morgan County schools in search of inch-long green worms the Alabama Department of Public Health claims has contaminated the food.

Today the search was to continue at schools in Madison, Marshall and Jackson counties.

Mark L. Grant, chief inspector for the U.S. Department of Agriculture's Food Safety and Quality Service in Atlanta, discovered a worm in the first can of USDA green peas opened at the Board of Education office here. However, no worms were found in the next nine cans.

Neither were there worms found in cans opened at Ardmore and Elkmont schools.

Another worm was discovered in a can at Cotaco School, in northeast Morgan County, said David W. Nelson of Decatur, a State Health Department environmentalist.

Thomas Ramey of Montgomery, supervisor of food distribution for the Child Nutrition Section, State Department of Education said Tuesday he wants the contaminated peas removed from school lunchrooms.

However, after worms were found in cans in all five counties last October and November the USDA approved the remaining cans for use in lunchrooms at public and private schools in the area.

Ramey said he expects the USDA to either destroy the remaining cans of peas, or instruct lunchroom supervisors to closely inspect cans and destroy those that are contaminated.

Under the federal commodities program the USDA shipped 10,590 gallon cans of green peas to the five counties.

After state health and school officials received complaints from all five counties a USDA inspector went to Guntersville and found no worms in six cans he opened, Ramey said.

The USDA later notified Ramey that the food should be released for program use. The school systems were notified Dec. 20 to again use green peas, he said.

However, some systems, such as the Morgan County school system, still refused to serve green peas to students.

On Jan. 21 the worms reappeared on the serving line at East Limestone School and the peas were quickly removed by servers.

Nelson said he went to the school, opened five cans and found worms in all five. "I think it is evident they are in there," Nelson said.

Nelson ordered green pea inventories at the schools be removed from the shelves pending another USDA inspection.

Mr. IRELAND. The next witness is a distinguished representative from the State of Michigan, Mr. William Ford. Welcome.

TESTIMONY OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. FORD. Thank you, Mr. Chairman. I was not here for Congressman Goodling's presentation but he and I have been working on this project for long enough so I think that it is safe to say that I would associate myself with his remarks. I will call your attention to the fact that Mr. Goodling and I are not frequently scoring the same on everybody's scorecard around here, from left to right on the spectrum.

This is an issue on which traditional conservatives and liberals have come together as they recognize that indeed the legislation which we are proposing and the changes to it meet the criteria of virtually everybody who is trying to do something about Government waste. It also falls into the category of trying to do something about Government redtape, doing something about the Feds dictating policy, and at the same time saving some money, while at the same time encouraging the local economy.

In a State like Michigan—and Mr. Weber would be familiar with what I am saying because he is from Ohio—we find products—as Mr. Goodling does in Pennsylvania—being shipped into our States which our State is well known for producing itself. I recall incidents, for example, of last year's apples being sent to the apple-producing section of our State. Someone asked a few moments ago how the small towns feel about our proposal. I suggest you try to talk to somebody from the apple-producing section of Michigan in September, when they are receiving apples which have been held in cold storage for a year, by the U.S. Department of Agriculture, delivered to them, and charged to them to be given to kids at the time when fresh apples are being turned into applesauce and everything else because we have a surplus.

You will find that they think the Federal Government is crazy. Last year when we were handling the bill you might remember that in the State of Maine the concern over the influx of Canadian potatoes was so strong that the Maine farmers put blockades up in the roads. They had the National Guard out at one period of time. Right in the middle of that, our Department of Agriculture shipped train loads of Idaho potatoes to the schools in Maine. This situation prompted then Senator Edmund Muskie to deliver himself of a very strong reaction.

I have come to the decision of supporting this legislation because of sitting several years on the committee and hearing these kinds of stories and the concerns that they represent. If you look at our hearings for example, you will find the school food service director from the Denver public schools telling us that even as she spoke to us she had 9 years' supply of rice in warehouses in Denver for which she had her staff looking for additional warehouse space because she was getting another year's supply of rice.

It is obvious that the kids in Denver are never going to eat as much rice as the Department of Agriculture thinks that they ought to eat.

We find an interesting alinement, for example, between those of us in the Midwest and western beef States. Boise, Idaho—not a great bastion of way-out liberalism and radicalism, is a very strong supporter of this approach. Again, rice comes into the picture. Those kids are raised on meat and potatoes. Then when you start throwing rice at them every day because the Department of Agriculture says that rice is a nutritional thing for them to eat, it is very hard to convince them and penetrate the cultural barrier that they have against changing their eating habits. While it might sell very well in some parts of the country. Apparently in rice country it goes very well.

I think another thing Mr. Goodling and I have learned, or at least I have concluded, after 16 years on the Education and Labor Committee is how much clout there is in a very few hands of the vested interests which like the present system. I might point out to you that our hearings show that two suppliers in the United States sell 85 percent of the turkey roll that goes into the school lunch program, and they are both in New York City. Both are on the same street in New York City, as a matter of fact. I have got nothing against New York suppliers, but why in the world are we sending turkey rolls to the Western States when we bring the turkeys from there and process them and send them back, and doing it cheaper, I do not know.

The interesting thing is that one of the suppliers—the largest in the country—testified before our committee that the turkey roll he sells to our program to feed school children is not acceptable to the Defense Department for feeding our military, nor is it acceptable to any major food chain for sale in a supermarket because people would not buy that kind of turkey roll.

From throughout the country, we find people running the programs who tell us the single most unpopular thing, no matter what the cultural bias or part of the country—North, South, East, and West—the single most unpopular thing that goes on a type-A lunch is turkey roll. And we keep buying it like it is going out of style.

Turkey is popular with the children and if we let people buy locally in a State like Michigan or Ohio, they are going to be serving turkey. But what we are doing by centralizing the buying, and putting it in national warehouses first, is that in order to handle it as a practical matter you have to turn it into turkey roll.

The kids will eat turkey as turkey franks or from turkey roasts—they are used to that. I believe all over the country this would be the case, but they would not eat turkey roll. This is another reason why a good deal of the food we pay for is dumped, then we have what we call plate waste.

One entrepreneur right across the river here, handles butter for us and butter comes from Mr. Goodling's area and from Ohio to this warehouse across the river. He takes it in the front door, holds it for a short time, and takes it out the back door while increasing the cost by 10 cents a pound. He does nothing. He does not change the color. The flavor. The composition, packaging—nothing—except handle it. Then we shove that back out and ship it back from the USDA to the very areas where the dairy farmers are who provided the original milk to make the butter, and then made the butter. And they are not very happy about that.

Our studies indicate that we could save the Government an estimated $30–$50 million. The Agriculture Department will tell you that this is not true because obviously the way in which we save this is by cutting down a heck of a lot of shuffling which goes on over there, and virtually all of the savings come from reducing bureaucratic involvement at the national level.

We estimate that we could be saving school districts as much as $300 million in local resources if we could get this off their backs. We can demonstrate, for example, that if the Detroit public schools were permitted to buy beef on the market in the State of Michigan, because we do have an adequate marketing system which would in effect lead to buying our own beef.

On the market, the Detroit school system can go—and they demonstrated this to us—to the marketplace and order like a chain of small restaurants and say we want *x*-hundred dozen 5-ounce patties of hamburger meat delivered to this school on Mondays, *x* number on Tuesdays, and so on. They can order and have it delivered just like a chain of little restaurants can do. The way the Department of Agriculture sells them or gives them and charges them for their beef is that it comes from wherever in 55-pound blocks. It then has to go to a processor and be broken from the 55-pound blocks into hamburger patties, and then must be stored some place and then distributed within the school system.

And when you start accumulating the benefit which the school system gets from receiving all this material in a difficult-to-use form, or in large quantities all at once requiring storage for up to 1 year, sometimes even necessitating the rental of refrigerated warehouse space and so on, you begin to see that offsetting what looks like a low price is a very substantial increase in the cost of handling and storage to local school districts.

So when you take the net cost of a 55-pound block of hamburger to the 80/20 fat-content standard which the Department of Agriculture has indicated is fit for this program, you find that you can buy it for a better price in many places. At least you can in the Midwest and have it processed and delivered on demand when you need it. You don't have to have warehouses to store it all year. They will do that for you. Just like people in private enterprise. When it is costed out to the local school district, the difference in the cost is amazing.

Now, another thing that sort of irritates us—and the gentleman from Ohio mentions milk—is that the milk which comes into Michigan does not come from Michigan. We are bringing powdered milk from States further west than Michigan to Michigan, reconstituting and giving it to kids in school districts in the heart of some of the best dairy country in the Nation.

Again, this is hard to explain to local folks in a State like mine who are suffering very badly economically. I do not like to emphasize the potential chauvinism and provincialism involved in talking about local purchasing in those States where we have agriculture as a principal part of our economy. But the fact is that this program is way out of balance for our State's farming community.

You, I am sure, will find some people from my State who will disagree with us tinkering in this. What the Department of Agriculture does, every time you try to make a change in school lunch programs, or in the commodities program is propagandize the school lunch people with advice suggesting that if you do not support us, we will not protect your food and you are going to lose. They are scared to death to criticize the system publicly, unless we call committee hearings and ask them to testify.

And every time you bring one person who is critical of the program from a State, the Department of Agriculture gets somebody else from the same State to say, no, we like it fine just the way it is. And no amount of waste is going to change the situation. No amount of disclosure of waste is going to change the concern which some of the oldtimers in the program have. It has always been an agriculture program. It has always been at the mercy of the current attitude, whatever it might be in the Department of Agriculture, and the attitude is, don't rock the boat.

When you talk about saving $300 million for local school districts, it is very hard to get the people down at the Department of Agriculture excited because that item is not going to show up in their budget. But it does show up on the budget of local taxpayers and State taxpayers who are providing those resources which we are using up in a wasteful way.

We could and would be very happy, both Mr. Goodling and I, to supply numerous examples of the ways in which the program becomes wasteful. It's not wasteful to everyone. It only becomes wasteful to those who have access to fresh apples in Pennsylvania and Michigan in September, and are getting Washington apples shipped in at the same time from the year before. Or to Maine, which has a potato surplus on its hands and is getting potatoes sent via the Department of Agriculture from another State. Those are the places where you develop a wasteful situation because you build up a surplus and a real problem is developed.

We have not yet exposed any public health difficulties of major proportions in the program. But if you read some of the things with respect to the contamination which takes place because of prolonged storage under unfavorable conditions at the local level, the local school people are pressed for money and are pressed for resources and they store things wherever they can find a place to store them. And some of the things which have been found by the Department of Agriculture indicate that we are just lucky that we have not yet been terribly embarrassed by a severe health problem attributable to the handling of this food.

The figures, incidentally, with respect to the savings we commend to you come from the Congressional Budget Office and former Under Secretary of Agriculture John Schnittker who first estimated that $50 million could be saved for the Department. I must say that this legislation was drafted by former operators of the program who have either been born again or repented, depending on your point of view. But it was not drawn by outsiders.

We really do not want this legislation as it has been characterized by some to be offered as a complete substitute or a replacement of the U.S. Department of Agriculture's commodities program. What we do want is the flexibility for local school districts on a purely voluntary basis, at least in the beginning, to be able to choose a cash or voucher approach until the program has had a chance to prove itself out. We would like them to be able to determine and to make their own purchases out of whatever is allocated to them, rather than letting somebody at the Department of Agriculture tell them what they ought to have, and in what volume.

As you know, we approved in the last Congress a pilot program, and at that time I found myself in the interesting situation of working with Senator Jesse Helms in the Child Nutrition Conference because in that conference the Education and Labor Committee goes to conference with the Agriculture Committee on the Senate side. It was Senator Helms who bailed out our program for cash in lieu of commodities and commodity letter of credit in that conference. And we compromised with a pilot study allowing some districts to try this out and see if it would work.

Unless we watch it, the pilot study is not going to work because there are a lot of people whose jobs depend on proving that you cannot do things different than you have always done them. But in short—and I would ask that the prepared statement that I have, be put in the record Mr. Chairman—I would like to simply say that this is not what one would call a big sexy issue. It is not like finding a multibillion cost overrun on our C-5 or something of that kind, but it is clearly, in my mind, indicative of the way in which people in this town have known for years that we have a problem. The only question is an argument about the degree of the problem. Agriculture says it is a problem, but claims it is manageable and acceptable.

I do not think, with the current mood of the country, any known and ignored waste is acceptable, no matter how small. So when we are talking about saving the Government $30-$50 million we are not going to balance anybody's budget, nor are we cutting very deeply into the deficit, but we are talking about a potential of $200-$300 million in savings to local school districts.

Let me just for a minute give you another dimension of that. We probably this year will cut out of the school lunch program, some place around $1 billion. If we can mitigate that billion cut by saving the local school districts $300 million without affecting a deficit down here, we will go a long way toward saving food for kids who really need it, across this country. I think that is what people really want. They do not want to just cut back on programs, they want us to make them work better so that they are getting more for their money. They want to be sure that when we are spending money it is going for the purpose we stated.

I do not attribute to anybody who has developed and worked on these programs over the years of the history, anything but the grandest of motives. But there are changes which take place which sometimes are difficult for people in the bureaucracy of this town to respond to. And just like other agencies, I have seen this part of the Department of Agriculture in my 16 years in the hands of conservatives and in the hands of alleged liberals, from one side of the spectrum to the other. When the Carter administration came in, we were told then that everything was going to change because the hunger lobby had now taken over. Believe me, there is something in the water down there, and within 30 days they all sound the same.

If you try to touch one hair on the head of that commodity program you are in trouble, and very frankly, I am sure that there are people in this room who will dutifully report my testimony here today, and I will soon hear from Michigan. The last time I spoke for this program, I got letters from all over the State saying that I was trying to destroy the free commodities for little children to eat. Unfortunately, it is not very well understood out there that they are not free—that what we give the schools in the form of commodities is not free, really, to anyone. And there is a concern that we somehow would affect the purchasing power of the Department of Agriculture to help the important segments of agriculture.

Of every dollar, 80 cents in the school lunch program has already been spent on a voluntary fashion. So we can only affect some percentage of the remaining 20 cents. We may be affecting the purchasing power of these programs in terms of the ability of the Department of Agriculture to use them to adjust agricultural prices by as much as 3 percent, with some commodities.

I think I heard Bill talking about peanuts. A couple of years ago when we had a glut of peanuts on the market, people were reporting to us that they were serving peanuts in five different forms in one school lunch program. In any one day you could find five different things in a lunchroom with peanuts in them.

Now, obviously in the last 2 years since we have had a drought in peanut country, that probably would not be the case, but we have people with turkey roll coming out their ears who say their kids would not eat turkey roll. But the Department of Agriculture keeps buying it and sending it to them, because the Department of Agriculture says there must be something wrong with kids who do not eat the amount of turkey roll that they think children need.

We just cannot keep doing this. We have warehouses—warehouses by the acres all over this country—being paid for by local people just to handle, until the food spoils enough so they can write it off and get rid of it. Tons and tons of food every year that is not actually going to feed people because we have a distribution system that has gotten out of "whack" with the consumer population. And while it was an adequate way to deal with the school lunch program in its earliest days, it is no longer an adequate way and it is no longer justified in terms of modern transportation which makes a real market and a real market option to local officials available virtually in every part of this country.

I say virtually, because obviously what you can do in the Midwest, you cannot do in Alaska or some other parts of the country.

In a general sense, if the system works fine in the State, let it stay there. All we are trying to say is, that for those people who think they could do better dealing with their own farmers and suppliers we would like to give them that chance.

Mr. **Ireland**. Thank you, Congressman, for a truly remarkable presentation.

Mr. Weber, do you have any questions?

Mr. **Weber**. I am going to pass. Thank you very much, it has been extremely interesting.

Mr. **Ireland**. Thank you very much. Without objection, we will insert your prepared statement into the record at this point.

[Mr. Ford's prepared statement follows:]

PREPARED STATEMENT OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, distinguished Members of the Subcommittee, I'm particularly pleased to appear before you today to testify with Congressman Bill Goodling on the agricultural commodities programs which are intended to serve the child feeding programs. As I am sure you are aware, these programs are under the jurisdiction of the Subcommittee on Elementary, Secondary and Vocational Education of the House Committee on Education and Labor, on which I sit as the ranking majority Member.

Last year, this Subcommittee held two days of hearings, lasting 16 hours, on the commodities programs and the problems being faced by school districts and other recipients in receiving these agricultural products. The hearings were based on H.R. 6841, introduced by myself, Congressman Goodling and 26 other co-sponsors. Our intent in this legislation was simply to better serve our school districts, and other Federal child feeding programs by permitting them to purchase locally the commodity food products they have been receiving from the U.S. Department of Agriculture.

Both Mr. Goodling and I came to the conclusion that this approach was advisable for several reasons:

One, for years both of us had heard "horror stories" about the quality, processed form, transportation, warehousing and logistics of receiving the U.S. Department of Agriculture donated commodities.

Two, we wanted to return to the local level much of the decision-making in this program. We sincerely believe that the local school food service directors and dieticians are excellent judges of what children should and will eat. The overall program is testimony to the fact. Under the current system, local school food personnel select 80 percent of the food which is served in this program.

Three, based on analyses done by the Congressional Budget Office and former Under Secretary of Agriculture John Schnittker, we determined that there would be a cost savings of an estimated $30–$50 million for the Federal government and of as much as $292 million for local school districts throughout the country. These savings would come from a direct delivery system which would eliminate costly reprocessing, warehousing and transportation costs incurred under the existing system.

When we introduced our bill, we frankly were appalled at some of the data we gathered. On the quality of USDA commodities, we learned of worms in green beans in Alabama, bug infested flour and brown rice with rat droppings in South Carolina, bad canned boned chicken all throughout the country, and turkey roll made to such inferior standards that the Defense Department would not even accept it.

There is no better example of the problems school districts face with timing and warehousing than the testimony of the Denver School District food service director, who said she had a nine year's supply of rice on hand. And, as she was testifying, she told us her school district was accepting a delivery of still more.

A number of school food directors testified before our Subcommittee and outlined very serious problems with the USDA commodities program. In the Washington, D.C., metropolitan area, the Director of the Food Services Division of the Montgomery County Public Schools listed for us just some of the difficulties she has encountered in recent years. They include:

"USDA commodity oven-fried potatoes fail to brown without being sprayed with oil and paprika, even then require excessive oven time.

"Ground pork allocated in November requiring it be utilized in four months does not start arriving until mid-March.

"We were notified processed American cheese would not be available and large quantities of mozzarella would be. We bid for American cheese and the vendor bought 1,800 cases at a high price. Then we were notified we would receive American cheese in volume to meet our needs. Four months later, we still had not received the mozzarella cheese.

"Poultry cuts different from usual specifications result in complaints from students.

"Beef patties sized larger than program requirements add to our costs, generate complaints when we have to revert back to the required size.

"Fresh apples, far from being ripe, arrived by common carrier after warehouse hours, unpalleted, required overtime and scheduling charges.

"Railroad cars that arrive too late to unload and must be held over the weekend, requiring additional layover charges.

"Canned goods distributed to school for storage take up valuable space until utilized over a long period of time.

"Shipments of unanticipated products require scheduling changes at the last minute and necessitate additional storage charges.

"Processed commodities on the rebate system require excessive time to cycle through individual schools and cause confusion for our full-cost accounting."

Mr. Goodling and I came very close to having our proposal adopted when the House Education and Labor Committee reauthorized the child nutrition programs in the last Congress. We remain committed to this approach and have reintroduced this legislation in a modified form as H.R. 3077, which Congressman Goodling will outline for you. The system is essentially the same in that local school districts and other feeding program sponsors would purchase commodities locally. This would, of course be an extension of their relationship with their local food distributor, which now supplies 80 percent of their food. The foods purchased would simply be those listed by the USDA as qualified items to be sought in a specific time period.

Looking at your witness list, I am sure much more data will be brought to your attention during your hearings to point out the need for an overhauling of our agricultural commodities programs. It is a system which serves neither our school districts nor our small businesses very well. I applaud your interest in pursuing a fair review of the commodities programs, and offer my assistance in your oversight. Thank you for the opportunity to testify.

Mr. **Ireland**. The next presentation is from the National School Boards Association. We have Dr. Robert Haderlein from Girard, Kans., Ms. Elizabeth Spencer from the Montgomery County public schools, and Ms. Joanne Styer who is director of school foods services for Montgomery County, Md.

I understand Dr. Haderlein that you have a statement that you would lead off with.

TESTIMONY OF DR. ROBERT V. HADERLEIN, PRESIDENT, NATIONAL SCHOOL BOARDS ASSOCIATION

Dr. **Haderlein**. Thank you, Mr. Chairman. I am Robert Haderlein, president of the National School Board Association, a federation of 50 State associations representing approximately 95,000 elected school board members who are legally responsible for all financial and instructional policy of 16,000 local school districts.

Mr. Chairman and members of the subcommittee, I would like to thank you for this opportunity to present the concern of our members. In addition, I would also like to thank you for your efforts during the 96th Congress to reduce the regulatory burdens through the provisions in the Regulatory Flexibility Act.

Our members are hopeful that all Federal agencies will steadfastly adhere to the provisions and the spirit of the act.

School board members believe that their primary responsibility is to the general welfare of the children and youth of this Nation. They also see themselves as representatives of parents and the taxpaying public in the delivery and management of services in public schools. Each board recognizes and tries to deliver these services in a most cost-effective manner possible, regardless of the source of revenues.

Today my colleagues and I who are present would present our ideas on how the Federal Government and local school districts might improve the effective delivery of one of the services to students, the lunch and breakfast meals programs.

School district size ranges from the small one-room schoolhouse in rural parts of America to the extremely large districts of New York, Los Angeles, and Chicago. However, the majority of districts are small. They are constantly looking for opportunities to eliminate inefficiencies, particularly since new tax dollars are becoming increasingly scarce.

We believe one of those potential opportunities is to be found in the USDA commodities distribution system. Although we cannot guarantee that every school district now participating in the school lunch program would save money by going to some type of alternative, we believe the opportunity to choose should be made available.

The objectives of the commodity distribution system, as they relate to the price support and surplus removal programs of USDA, and the national school lunch program are the same. That is: One, to increase the consumption of the United States perishable agricultural commodities and prevent waste;

Two, to procure foods for the national school lunch and other Federal food programs as efficiently as possible;

Three, to enable improved timing of procurement and better management of inventories;

Four, to provide latitude for maximum local choice in the selection of foods for school lunch programs in line with local needs and tastes with established meal guidelines and standards; and

Five, to utilize regular commercial channels of trade.

However, practical experience over time has clearly demonstrated that for many school districts those objectives have not been met. I am a member of the Girard, Kans., school board and I can speak from my own experience with both the commodity system and a cash in lieu of commodity system.

My superintendent and director of school food services have declared that there is no comparison between the two systems. Before cash, we had all kinds of problems. We had to purchase storage capacity based upon the ebb and flow of the commodity system needs, and not those of our district. We would receive flour in extremely large quantities, rent storage for prolonged periods, lose part of the flour to weevils, and then be charged by the Federal Government for damaged foods. Under the commodities program we felt obligated to accept foods which were not generally appealing to our students, simply because it was the thing to do, since we received other foods we could use. Obviously, that approach did not work at all.

Another problem area was the recordkeeping procedures. Under the old system many hours of staff time were committed to inventory control and auditing procedures. This was also intimidating to employees when Federal auditors would come to our district and imply either some degree of fraudulent behavior, or lack of competence of our staff, based on some extremely complex recordkeeping system.

The way we now operate with cash simply eliminates all of those hassles. More importantly, the staff spends time improving meal quality instead of filling out forms.

At this point, I would like to draw your attention to one of the major myths of the free commodities program. Representative Ford referred to this. They are not free. We had to pay for all in-State and local transportation, storage, processing, recordkeeping, and loss costs. I do not know in absolute dollars and cents what those costs were under commodities, but I do know that our nine-district regional co-op purchasing program has given us the best quality of food, the best quality for prices, the best delivery schedule, and an attitude of service from each vendor and purveyor. We cannot imagine having to go back to the old commodities program.

Many of our members have carefully studied the problems associated with the USDA commodities program, and have considered the cash or other financial instrument as substitutes to commodities. As a consequence many of them would hope that some optional system could be developed. They believe an option such as cash would present the following benefits: (1) greater control and more flexibility in menu planning; (2) more control of product form; (3) more control of delivery dates; (4) better and easier management of inventories; (5) increased purchasing control; and (6) lower transportation and storage costs.

The present system of commodities distribution has caused a loss of value for our members' lunch programs on many products. It would seem that an optional program affords school districts more of a chance to make specific choices for foods used in their programs. After all, local school board members are the people who are charged with the responsibility for making decisions affecting students and school programs. It gives school districts flexibility without taking away from the objectives of price-support or surplus-removal concepts.

In this time of budgetary problems, with everyone looking to reduce expenses, it would be incumbent upon us to conserve and make the best possible use of funds, as an optional program would indicate.

Mr. **Ireland**. Thank you. Could you elaborate on the section where you say that price support adjustments are made without taking into account the adjustment for price support removal. What would be the big opposite argument?

Dr. **Haderlein**. Well I think that it was pointed out that 80 percent of the food that is purchased now is purchased locally. What our dietitian, program manager can do, they can anticipate menus 2 and 3 weeks ahead. They know what they can purchase because we are purchasing them on bids. We are using the nine co-op counties that we have and we really get the bids down to a fine line. We will take—suppliers would come in with eight cans of beans and we will open up the top of the beans and we will actually taste them, and we will decide which is the product that is most palatable, and then we will order those beans in large amounts. But we know when those beans are going to be able to be put into our system, when they are going to be delivered. We can regulate the flow of the foods, thereby our dietitian knowing what is coming ahead, can regulate the menu 2, 3, and even 4 weeks ahead. We do not have large inventories because we have the food delivered. Maybe we will purchase for 2 or 3 months and then we will repurchase. So we save a lot of money in this respect.

Mr. **Ireland**. If the Department of Agriculture says they have a surplus of a certain item, would you then say that you could work that into your program? What do we do about the examples that we have already heard—and I am sure that we are going to hear others—of foods that are not appealing?

Dr. **Haderlein**. It has always been a problem. In the commodities program—I spoke to our dietitian just before I left home, and she told me that they had almost a 4-year supply of grapefruit juice.

Mr. **Ireland**. Well now you are hitting home. [Laughter.]

Dr. **Haderlein**. That is why I said that, and that is true. We had turkeys like they were just speaking to. We had quite a lot of turkeys. You know we just have a lot of products and they do try to work them in but there are just so many ways that you could eat rice. It is like spinach. There are just so many ways that you can make spinach palatable and eventually if it is a class A meal you are expecting the child to eat all that is on its plate. Now if you give them spinach, and they do not eat spinach and they do not eat rice, then all they are doing is taking a hamburger pattie then they are really not getting a class A meal. And so you are defeating the purpose of the class A meal when you do it this way.

Mr. **Ireland**. As I understand it, the classic situation that you find yourself in is that you try to process say rice 57 different ways so that the kids will eat it. They let you know that they do not want it—then your paid meals drop and the cycle is going against you.

Dr. **Haderlein**. That is true, and of course we are being faced with that. If this program goes through, as we see it, a reduction of 40 percent, we are going to be faced with that. We are going to have less and less paid meals to the point where in a school district where we are running a small attendance center out there we might very well just close the cafeteria program, because it is probably not paying for itself now. But with this added you would just have to close it down.

Mr. **Ireland**. Well it seems to me that that is the one ray of hope in this whole matter. It is the incentive created by the children. The whole thrust of the program as far as distribution inefficiency of the USDA is that there is no incentive to produce, and at least the children are giving you the incentive to produce good food out there or they will turn away.

Dr. **Haderlein**. Yes, Mr. Chairman. I have 1,200 students in my school district, and we serve an average of 800 meals per day, which I think you will find is a very high percentage, and we do not have a closed lunch hour. I think that speaks to the fact that probably the food is palatable and the kids find that it is much better to go to the cafeteria to eat than it is to go down to the quick stop service and get a hamburger or getting something down there. I think it speaks to our particular program, and I think that it is because we can purchase the foods that we want and prepare it the way that we want.

Mr. **Ireland**. If we could find some other incentives we would not have so much protection of the status quo of the Department of Agriculture. Thank you. Mr. Weber?

Mr. **Weber**. Doctor, was Girard, Kans., part of a pilot project or an experimental program on this cash in lieu of commodities?

Dr. **Haderlein**. No, I do not think so. I think that the whole State of Kansas was involved in that project.

Mr. **Weber**. Oh, I see.

Dr. **Haderlein**. Somebody alluded to that a few minutes ago.

Mr. **Weber**. Well I was just wondering about the paperwork procedures that were connected with the cash-in-lieu-of-commodity systems. What kind of paperwork was newly required as a result of this system in order to preserve some degree of accountability for the way in which the cash is being expended?

Dr. **Haderlein**. Well it is very simple. If you are not having a whole lot of commodities coming in through the front door you do not have a lot of inventory to keep and you do not have to show those commodities being used. If you have a purchase order for 50 cans of beans you could readily show where you used 50 cans of beans, and that is beans in and beans out and it is cash for it. It is just like running a small business.

Mr. **Weber**. But what I am getting at is that we are not substituting one set of paperwork for another set of paperwork under the new system.

Dr. **Haderlein**. There is just a lot less paperwork. And then you are not having the problem of having the shortages and the spoilage. That is a big item. You see we would get weevil in the flour and then we would call the food service program at the State and we would have to wait for them to come down. Then they would come down and they would stand there and watch you destroy it and then you destroyed it, then you paid for it.

Mr. **Weber**. What kinds of reports did you have to file to show how your funds were being used in this program, to account for the funds?

Dr. **Haderlein**. Would you ask the question once again?

Mr. **Weber**. What kind of reports did you have to submit to show your accountability for the funds that were given to you under this cash-in-lieu-of-commodity program?

Dr. **Haderlein**. Well, those are the reports that we are now showing in the cash program. In other words, we get so much money for each meal we serve. We get so much money per meal or cash-in-lieu-of-commodities, and this money of course is income, and then we show on purchase vouchers how much money we are expending for food we purchased by our dietitian and through our local cooperative purchasing, and for the most part it is very simple. We do not have a lot of inventory either.

Mr. **Weber**. Thank you very much.

Mr. **Ireland**. Thank you very much, Dr. Haderlein. Mrs. Spencer would you lead off please?

TESTIMONY OF ELIZABETH W. SPENCER, MEMBER, BOARD OF EDUCATION, MONTGOMERY COUNTY, MD.

Mrs. **Spencer**. Thank you very much. I appreciate this opportunity to describe for you some of our reaction of local board members to these commodity distribution program.

Mrs. Styer, also from my district will be here and will be testifying to the technical aspects.

I am an elected member of the Board of Education of Montgomery County, Md., which is among the 20 largest school systems in the Nation. I have served this board as its vice president and president, and am currently again vice president.

In addition to my more than 6 years service on this board I was also twice elected to a local board in a small community in Kansas, serving there 6 years and again 1 year as vice president and this year as president.

Currently my business responsibilities take me out to western Kentucky about once a month. I am one of those small businessmen because I run the family farm. And I take advantage of this travel opportunity to maintain informal communication with my friends in the local school system there.

As board members, and perhaps especially as elected board members, we are frequent recipients of letters and phone calls—usually with complaints—about the quality of all aspects of our operation. Prior to the era of school closings we probably heard more about our school lunch programs than about any other single topic. Our customers, our students, head start youngsters, and senior citizens, demonstrate by their participation their general approval of our food service. However, even the elementary children are critical when a product or menu is varied to utilize foods received through the commodity program. Last year while we had on our menu commodity supplied cuts of chicken we received this letter:

> To Sir or Madam: I am a fourth grade student from Barnsley Elementary and I have been buying your lunch every day. I like it very much but your chicken has no meat on the bone. And I ask you to put meat on the bone. And I don't think it is fair to pay 60 cents for cooked bones. Sincerely.

Now if you want to read the answer it is attached at the end of this.

Mr. **Ireland**. Without objection, it will be inserted in the record at this point.

[Material referred to above follows:]

Montgomery County Public Schools,
Rockville, Md., February 26, 1980.

Mr. Steve Kerrigan,
Rockville, Md.

Dear Steve: I am happy to know that you are buying and enjoying a hot lunch at Barnsley Elementary School every day.

I like chicken, too, and I am sorry you didn't get enough meat on the bones. I'll bet your Mom tries to save money at the grocery store. We must save money, too. One way we save money is that the government gives some foods to our schools so we don't have to go out and buy them. Chicken is one of these foods—sometimes the pieces are small and sometimes they are bigger. I will send a letter to the person in charge of sending us chicken and ask them to send us meatier chicken pieces if they can. By the way, Steve, do you eat all of your vegetables, fruit, bread and butter, milk, and dessert? Those foods are important, and they will help fill you up!

Thank you very much for writing to me. I hope you will understand my anwer.
Sincerely,

EDWARD ANDREWS, *Superintendent.*

Mrs. SPENCER. As it has been explained to me, when the Montgomery County public schools put out requests for bids on chicken we specify the size and the pieces which are popular with our participants. Government specifications vary. Sometimes we get an eight-cut. Sometimes a nine-cut. And we must take all pieces. A practice that results in some servings which contain approximately the same amount of meat but which appear to be mostly bone. This creates the dissatisfaction I just indicated.

The vendor which received the meat contract from Montgomery County public schools this past year has been affected by the commodity program. Chicken is a major part of our meat bid and through the commodity program we received our entire supply of chicken for the remainder of the year by January 1. Therefore, our purchases under this contract have been significantly lower than it had been anticipated.

Because our board policy states that all purchases by the system in excess of $5,000 must be put out to bid, all food products for our large operation fall under the bid procedures. The commodity system has a negative effect on our ability to generate competitive bids, and indirectly causes financial hardship for the businesses which seek to become our supplier. A recent incident illustrates my point.

In one of our more competitive situations, we had four bidders. One, the apparent low bidder, included a new product, which generated a protest by the next lowest bidder, although it met our specifications. On the advice of the board's attorney, all bids were rejected and the product was rebid. This time the earlier protestor was awarded the contract by giving us an aggregate total which included a lower price on the new product.

This contract was worth approximately $22,000 per month. Now our bids routinely include the stipulation that we may purchase none of a product, or any amount of it. In this case, we received during the 2-month period covered by this bid, our entire year's allocation of this product through the commodity program. Not only did we fail to buy this product from the original low bidder, who lost because he had already contracted with his suppliers for large quantities of this product, on the assumption that he had the bid, but also from the eventual low bidder. For the next contractual bidding period neither of these firms was interested in our business, and we were left with only one bidder. This does not benefit either the school system or the businessmen involved.

The fact that we cannot guarantee the purchase of a product places great pressure on a small company. Smaller companies are not able to handle the losses which may occur if they make a financial investment based on a contract which they have been awarded but which is not used because the food is provided to the school system through the commodity program.

Another example of this difficulty faced by small businesses is one in which a company was contracted to produce cheese for our schools using dry milk, which was to be delivered through the commodity program in August. They had not received it by January, and the company had to replace the dry milk with another product which substantially increased the cost of producing the cheese. The end result, the company went bankrupt.

Another problem which affects large school systems more than it does the smaller ones, is the problem of storage. Perhaps few districts receive, as we did, 32½ tons of instant potatoes with essentially no notice, and no space to warehouse. Within 48 hours we had to distribute these to our schools, utilizing five trucks that were badly needed for other things, and with the result that the Health Department criticized us for improper storage of this food.

There are several other problems with which I have become aware. Some of the commodities which are received come in a form which we are not used to handling and for which our equipment is not designed. It requires a great deal more work on the part of our staff to prepare the food.

Another difficulty with the commodity food distribution program is its lack of coordination with other governmental agencies and policies. Just when we had mounted a campaign for better nutrition as we were being urged to do by the Department of Agriculture, with an emphasis on fewer fats and sweets, we find the commodity program stressing cheddar cheese and limitless butter while we would like mozzarella cheese instead. Our students tend to enjoy mozzarella cheese more than other cheeses. One of our better selling items, pizzas, uses mozzarella cheese. However we have been receiving a great deal of cheddar cheese, which is much higher in fat content, through the commodity program, and we have not been able to obtain mozzarella cheese.

An aside. I am told by my friends in Kentucky, when I was out there just last week, that they do indeed receive mozzarella and pizza is not their favorite dish out there, so they have a hard time getting some of their students to utilize it.

Finally, we sometimes receive food which is not liked by the students, such as dry beans, and which we have a great deal of trouble utilizing. The commodity food distribution program has been a mixed blessing to school food programs. In order for the program to be more beneficial to small businesses and more cost effective to schools, a better means of distribution should be developed. Cash in lieu of commodities or vouchers should be considered as options to the current program.

Thank you for the opportunity to share some of my opinions on the commodity food distribution program with you.

Mr. **Ireland**. Thank you, Mrs. Spencer.

Mrs. Styer, have you, a statement to make?

TESTIMONY OF JOANNE STYER, DIRECTOR OF SCHOOL FOOD SERVICES, MONTGOMERY COUNTY PUBLIC SCHOOLS, MD.

Mrs. **Styer**. Yes, Mr. Chairman. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to share with you my thoughts on the commodity distribution program, and how it influences my bid process and warehousing costs.

I am a registered dietitian and have been a school food service director for 11 years. I am an active member of the American School Food Services Association and the American Dietetic Association. I am chairman of the Dietetic Practice Group for School Services, a section of the American Dietetic Association.

Montgomery County, Md., has an elementary and secondary school enrollment of 99,000. Every day we serve more than 44,000 school lunches and provide an extensive a la carte service to students and adult staff members. We serve breakfast to 5,500 students a day.

In addition, we will provide this year, 168,000 dinner-type meals to senior citizens at 14 sites, and 150,000 meals to low income preschool day care children. We also will provide 66,000 meals to children over the summer, all of whom are low income children. In addition to milk we provide with the school lunch, we sell 30,000 half-pints of milk a day under the special milk program.

My operating budget for this year is $15.3 million. We have 770 employees. Our average starting wage with fringe benefits, is about $6 per hour. We have meal service at 182 elementary and secondary sites.

My food budget for this year is $5.7 million. In addition, we will receive $1.7 million in donated commodities. Currently, the State deposits my commodities in commercial warehouses in Baltimore and Landover, Md. Or, these commodities are sent by railcar to Rockville. Such as our 32½ tons of instant potatoes.

I am billed quarterly for the warehouse and railcar charges. This year the cost will exceed $42,000. This does not include the cost of trucks and labor to pick up the commodities from the warehouse and distribute to 182 schools, covering a 521-mile delivery radius.

I am required by Montgomery County law to bid all products that exceed a $5,000 level. With our large volume, this means almost every product used in my program is secured through the formal bid process. Currently, since we lack a food service warehouse, our bids require vendor deliveries to each school. Most bids establish a minimum load, either by weight or dollar volume. This requires that our bids be by aggregate rather than being line items. This is mandated by a significant number of schools with small enrollments that must be served.

The commodity distribution system, as it operates today, creates havoc for our bid system and for our vendors. I do not know what to expect in commodity products or in their quantity; nor do I know when to anticipate deliveries. Our bids must state that we cannot be held to any quantity and that the vendor is obligated to provide all bid items. Frequently, items on bid are never purchased.

Many of our bid awards are based on the large volume of some items. For example, french fries on the frozen food bid. Our program utilizes more than 61,000 pounds of french fries monthly. The companies anticipate selling this large volume item, and they price all products accordingly. This year we had been led to believe we would not be receiving french fries. Then suddenly we received 194,880 pounds of french fries. The company providing our french fries had similar contracts with four other large school systems which received similar allocations. This type of situation happens over and over again. Even companies with donated commodity experience sometimes suffer financial hardships resulting from the uncertainties of the commodity distribution system.

This is usually reflected in higher bid prices at the time of the next bid award. Or, as Mrs. Spencer said, they just do not bid. Small companies cannot afford to take these risks and are unable to bid competitively.

Here is another example. Pineapple must be booked at least 2 months in advance by vendors. Our vendor booked 1,000 pieces for our use in September and October. Meanwhile Maryland was allocated 11,000 cases of pineapple. My share, 1,000 cases, we received in August. The vendor's pineapple cost them an extra 20 cents per case per month, based on a 17-percent interest rate, or an extra $400. This did not include their normal overhead. This company states that it is necessary to add 5 percent to our bids to offset the uncertainties of the commodity distribution system.

My purchase prices are very competitive with USDA's commodity purchase prices, when you consider the distribution to my schools that we have to make. Obviously, I can also dictate delivery, when, where, and in what quantity I prefer. Comparison of similar bid prices which include delivery to schools, and the commodity price, which includes only transportation to the warehouse and no warehouse or distribution cost, are reflected as follows: Chicken thighs, raw: USDA is $19.95 per case; MCPS bid is at $21 per case. Ground beef in bulk: USDA is $76.83 per case; MCPS bid $58.85 per case. Green canned beans: USDA $8.61 per case; MCPS at $9.85 per case. Catsup: USDA at $10.60 per case; MCPS at $11 per case. Pineapple tidbits: USDA at $14.50 per case; MCPS at $14.65 per case. Cornmeal: USDA at $7 a bag; MCPS at $5.30 per bag. Whole wheat flour: USDA $6.25 per bag; MCPS at $6.30 per bag. Canned tomatoes: USDA $9.38 per case; MCPS at $10.85 per case. Frozen french fries: USDA $7.98 per case and MCPS $11.34 per case.

To distribute commodities to our 182 schools, it requires five drivers and trucks for a full day. The average salary for truck drivers in our system, including fringe charges, is $10.88 per hour. The per case cost for warehousing is $1.60. Assuming a load level of 250 cases per truck and 50 cents per mile truck cost, over a delivery route of 521 miles, the additional cost per case for 1,250 cases of delivery commodity product is $2.15, which throws us in to having a much better price in the commodity program people are getting.

To have a successful food service operation today, it is essential to know customer preferences. This is especially true when feeding the finicky taste of children. Many hours are spent determining what products work best in our program.

Frequently, commodities provided are not liked by our children and their participation in our program suffers. For example, there are several oven fries that work well in our program. They rethermalize within 12–15 minutes and are crisp. The commodity fries take 30 minutes and do not brown, and are limp. This has been reported for years. Turkey rolls are disliked while turkey franks and roasts are liked. Whole turkeys pose a logistical nightmare to store, thaw, and portion safely. Yet, we continue to get whole turkeys and turkey rolls. Processing agreements have been developed to further process the rolls into patties and pies to make them acceptable. The end cost of those products using commodities, is shocking. And I consider it to be an abuse of the commodity program.

The processing agreements provide an effective vehicle for using many commodities that would be impossible to utilize. Last year, I used $380,000 worth of commodities in processing contracts.

In my experience, only large processors are successful in getting these contracts. Most small companies, lacking sophisticated accounting systems are fearful of the staggering amount of the paperwork required.

The CN label further complicates the issue. While a CN label for a processing agreement is not mandated, there is considerable pressure from many sources for these products to have their label. The time and the additional costs which may even include reformulation of their product without a guarantee that they will have school sales, discourages small companies from taking the risk. Even if they could compete favorably with larger companies without the label costs, with it they are usually out of the competition.

In summary I would like to say that the commodity distribution program falls far short of its real potential to the child nutrition program. It creates uncertainty in the formal bid process, adds additional costs to our bids, and requires the local business community to take financial risks. Small businesses are frequently eliminated from competition since they seldom have the necessary resources with which to fall back on.

The cost of warehousing, distribution, and paperwork required for the accounting of commodities has greatly reduced the actual real value realized by our program.

I recognize that the Congress is going to make some budget cuts. Only 11 percent of my student population is eligible for free and reduced price meals, and we stand to be the most severely hurt by the cuts which are made.

In my opinion, our program and the local business community would both be better served if I got cash or a voucher instead of commodities. I believe I could operate a much more cost-effective program and accomplish the intent of encouraging domestic consumption of nutritious agricultural commodities.

Thank you for the opportunity to express my view.

Mr. IRELAND. Thank you, Mrs. Styer.

Mr. Weber, would you like to——

Mr. WEBER. I have no questions, Mr. Chairman, and I apologize because I have to go to another meeting.

Mr. IRELAND. You ladies have outlined the program very succinctly. I am particularly pleased by your emphasis on how it touches the small businessmen because that is our jurisdiction. I am sure we are going to hear direct stories from them, but the background that you have given us is just exactly what we need to understand their particular problems.

Thank you all so much for coming by today.

Our next witnesses are Frances Spain and Bonnie Baehr.

TESTIMONY OF FRANCES J. SPAIN, R.D., DIRECTOR, HOPKINS COUNTY SCHOOL FOOD SERVICES, MADISONVILLE, KY.

Ms. **Spain**. First of all I would ask your indulgence in the redundancy of some of my remarks as many of them have already been covered.

Mr. **Ireland**. Fine.

Ms. **Spain**. Mr. Chairman, my name is Frances J. Spain. I am a registered dietitian and for 18 years have been purchasing agent for, and director of food services for the 19 schools in Hopkins County School District in Madisonville, Ky.

Our school district is on the national school lunch program, the school breakfast program and the special milk program. Each of these programs must be nonprofit but self-supporting. Self-supporting means that all necessary food purchases, all labor, all equipment, all supplies, and all administrative expense must be paid by the Federal cash reimbursements and revenues from the students who pay for their meals. My school board requires me to serve maximum nutrition at minimum cost, and insure that the food service department stays out of debt. We are currently charging 65 cents for lunch in the grade schools.

Although we serve only 6,600 lunches and 2,000 breakfasts each day, last year our department had a total expenditure of over $1¼ million. Of this, 51 percent was spent for food and milk. Our total per plate cost was $1.151 per plate. Our income per plate was $1.157. Obviously we are on a very tight budget and every one-fourth of a cent is important to us.

The financial assistance provided school food service by federally donated foods is vital to keeping our per plate cost at a nominal level. However, the administrative cost connected with handling of these foods cannot be overlooked. Most donated foods are shipped by railcars. Many small districts share in the contents of each car. The district where unloading takes place is designated the consignee. It is the responsibility of the consignee to notify the 8 to 10 other school districts of the arrival of a car. It is not unusual for 45 cars to be unloaded at one site during a year's time. One secretary will spend a minimum of one-half an hour per railcar making these calls. Over a year's time, the calls coupled with the paperwork will equal 4 uninterrupted work days—at the consignee's expense.

Consignees are also financially responsible for supervising the unloading of the railcars, securing the receipts for foods distributed; security of the railcar, cleaning the car if it is emptied at this destination, and releasing the car back to the railroad agent within the time limits.

Railroads allow 24 hours for unloading after the car is spotted on a rail siding. After that period, demurrage and detention charges begin, at consignee's expense.

When two or three cars are spotted, at one time, the consignee's problems double and triple. Each car has to be supervised as previously stated. As other school districts take their allocation, the consignee must also unload and begin delivery of its own allocation. The volume of cases from three cars require foods to be taken from the railcar and stored somewhere until all food can be eventually delivered to the schools.

In my own school district, it is 110 miles round trip to our 19 schools. It takes 2 days for two men to make deliveries to these schools in a fully loaded 1½-ton truck.

If another school district is consignee, our men travel as far as 95 miles away to pick up commodities.

Some days we receive calls to go to two different school districts in 1 day. We have unloaded in our own county and also had to travel to two different counties—all in the same day. It is a logistical nightmare.

In instances of damaged goods or shortages, the consignee most often takes the loss. Further expense to consignee occurs if other school districts fail to arrive during the specified unloading time, resulting in extra hours of supervision. If schools are closed for vacation or bad weather, notification calls are difficult to complete, requiring more time. If there are damages and/or shortages extra clerical time is required to complete further paperwork.

One other financial loss to all schools need to be noted. Each year shipments of commodities arrive in late April, too late to be fully used before school is out. Nonperishable items will sit in hot storerooms during July and August. Weevils will cause some items to be unsuitable for consumption in September. Perishable items cause added expense in the form of utility bills. Pilfering is also a cause for loss.

In 1979–80 we traveled over 9,000 miles picking up commodities and delivering them to our schools. The cost of labor alone, to handle these commodities was 76 cents per case.

If this much time and paperwork and effort is required on the local level to distribute the USDA donated foods, it causes one to ponder the enormity of time and paperwork and expense on the State and national level.

In 1979–80, the Kentucky Department of Agriculture let bids for a system of unloading, storing, and redistributing commodities in Kentucky. The service is available to any school district which chooses. In an effort to avoid the aforementioned stress situations, our school district is taking advantage of the system this year. The charges are on a per case basis, averaging 5 cents per pound.

One fact remains, I still have to pay to have donated foods delivered to me. I can purchase many of the food items locally at a cost cheaper than USDA indicates.

I call your attention to the price comparison chart—it is the last page of this statement—showing prices as given to us by USDA, plus distribution charges. Also listed are the actual prices for which I could purchase the same items in August of this past year.

Since USDA and I are so close in our purchase prices, I maintain that it surely would be less expensive to the taxpayer for school food service programs to be given cash with which to purchase foods locally, instead of the commodities. This would be true even if we did not consider the nightmares of logistics, redtape, and paperwork.

All our local food purchases are made through competitive bidding. Bids are let twice a year. Our specifications are for the best quality necessary for each food item. The lowest prices are bid when a firm number of cases for each food item is given. When my vendors know how many cases I am asking for, they are able to obligate that many cases from their suppliers at a current low price.

We use a centralized menu for our 19 schools. This not only assures adherence to a nutritionally adequate diet but it increases our buying power due to the quantities of like foods used.

All professional school food service directors recognize the importance of a menu. This is the plan by which we control our program. If the menu—and the food—is not acceptable to the students, they will not participate in the program. Without student participation all our efforts are for naught.

Good, effective menu planning is impossible as long as we are burdened with foods donated by the U.S. Department of Agriculture.

It is not known when commodities will arrive. It is not known what quantities will arrive, and in some instances, it is not known what foods to expect.

Menus cannot be planned with these unknown factors. Basic menu-planning techniques require the menu to be planned before the food is secured. Menus have to be planned at least 2 weeks in advance of the service so that food purchases can be made.

Very often, after deliveries of purchased foods have been made, a shipment of commodities will arrive, creating an overload of food in the storerooms and refrigeration units. Frequently, the commodities are the same as the foods which have just been purchased. This overcrowding can cause distributors of purchased foods to be called upon to make extra deliveries. All this does not help keep our per plate food cost down.

Congress has been concerned with plate waste in the school food service programs. The Federal Government is causing this plate waste. Anyone who is in the business of feeding today's young people is aware of their food preferences. In order to prevent plate waste, food service directors must plan menus for acceptability by the students. Their favorite foods include hamburgers, pizza, tacos, chili, spaghetti, and anything on a bun. Twenty years ago our competition was mother's cooking. Today it is the type of foods served in fast food restaurants.

Commodities include such unpopular foods as sweet potatoes, pinto beans, cranberry sauce, cheddar cheese, prunes, and other foods furnished in such large quantities as to defy imaginative use. We had so many instant mashed potatoes last year that our own State department of agriculture sent us a recipe for cookies using the potatoes to help us—and I quote—"get rid of the potatoes."

It is not in the best nutritional interest of the student to serve menus with foods which are known to be unpopular. It is commodity foods which are causing plate waste.

Mashed potatoes, for example, are not an acceptable accompaniment for hamburgers, cheeseburgers, chuckwagons, and other sandwiches. If potatoes are a surplus commodity, schools could still relieve the market with purchases of french fries, potato rounds, potato triangles, and so forth.

Since much of the donated foods is of the raw product type, that is flour, cornmeal, shortening, egg mix, powdered milk, and turkeys, extra labor is required to prepare and cook these foods. Labor is very expensive. It constitutes 37 percent of our total expenditures.

Incidentally, we are finding it more difficult to find cooks who are able to prepare yeast breads and scratch cakes. Today's cooks are oriented to cake mixes and bakery breads.

The Department of Agriculture has been beating loud drums about commodity processing. The message is that one solution to the problem of large quantities of raw product commodities is to enlist the assistance of food processing companies to convert them into usable and more desirable foods. For example, cheese, flour, vegetable oil, and tomato paste can be converted into pizza. How much more complicated are we going to allow this system to become?

Private industry is able, through technology and free competition, to prepare out of these same raw product commodities, entrees and other menu items that are cheaper than school cooks can prepare and that are more appealing to today's students. They can sell the foods to schools through the natural flow of the market and without a plethora of paperwork.

If schools were relieved of the burden of surplus foods, but given cash equivalents instead, they could remove the same quantity, if not more, of surplus foods from the market. The farmers would continue to be supported and plate waste would drop drastically.

To illustrate, if flour is in surplus, schools could still help relieve the market with more purchases of precooked rolls, buns, cakes, pies, pizzas, taco shells, et cetera, directly from distributors. Furthermore, such purchases directly from private vendors would not only reduce big government, but would also serve to promote our cherished free enterprise system. If this is not a fair assumption then schools really are a dumping ground for surplus foods.

Another concern which must be addressed is the financial problems created for smaller vendors.

In mid-August, the beginning of a school year, our storerooms are almost empty after the summer vacation. Commodities do not begin to arrive with any regularity until the first of December. Therefore, all of the food used in these first months has to be purchased. By October we are out of cash with which to pay our vendors. When these businessmen are not paid, they have to borrow money on which to operate. You and I both know who will pay the interest on their loans.

If a vendor, through information on my bid invitation specifications, expects to sell me 500 cans of green beans, he will order them delivered to his warehouse. If I purchase only 250 cases because I received the other half in commodities, the vendor is stuck with green beans, and numerous other foods, for the same reason. This problem multiplies by the number of school systems with which he is dealing. The distributor's cash is tied up and so is his warehouse space, for an indefinite period. Tragically for the vendor, there are times when prices have declined after his purchase of a food item for schools. He will have to take a financial loss in order to move the food from his warehouse.

In any case, distributors will have to bid higher prices to anticipate such a loss. This does not help keep down my food cost.

Most smaller school districts are located 50 to 150 miles from their major food distributor. Transportation charges become an important factor in the price of purchased foods. If my distributor is making a delivery to my school already—doesn't it seem reasonable and more efficient to allow him to deliver all the food I need, including food purchased with cash in lieu of commodities?

I can walk across the street from my office in Madisonville and purchase all the cheese and butter I need, as I need it, from a locally owned dairy. They can be delivered with our milk deliveries. Why should I be furnished commodity cheese and butter at times and in quantities bearing no relationship to my needs? Why should I have to pay extra storage charges for these foods during the summer months, because they arrived too late to be fully used before school is out?

There is a locally owned, federally inspected meat packer 45 miles from me. I can purchase quality ground beef from him today for less than USDA's quoted cost. This distributor has been forced to drop some of his services to me because of having to compete with Government commodities.

The original challenge of my profession and my job was to supply an appealing, nutritious, and inexpensive meal to students while attending school. It is becoming increasingly more difficult to keep that original challenge in mind, as more and more Government rules and regulations are added to the programs.

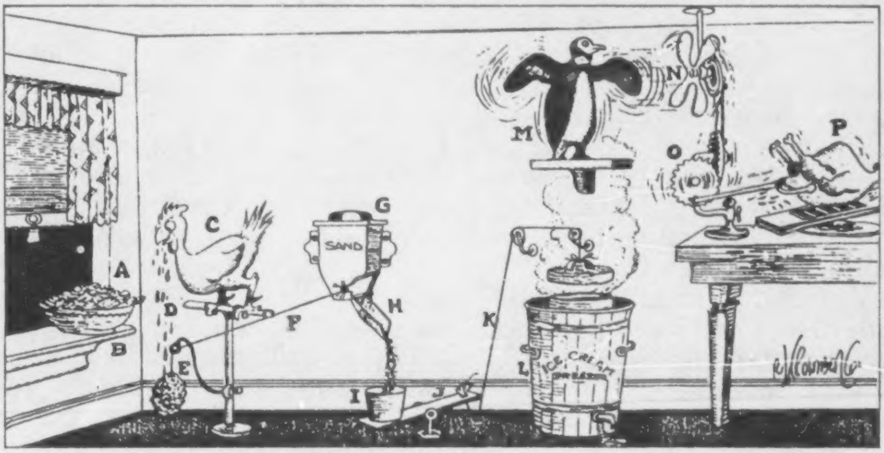
It is like one of those crazy inventions of the cartoonist, Rube Goldberg, who became well known for his complicated mechanical contrivances for accomplishing simple tasks. To illustrate, I have included one of his cartoon inventions with my statement.

Mr. IRELAND. Without objection, it will be inserted into the record at this point.

[Cartoon referred to above follows:]

The Best of Rube Goldberg

Simple Way to Carve a Turkey



Simple way to carve a turkey. This invention fell off the professor's head with the rest of the dandruff.

Put bowl of chicken salad (**A**) on window sill (**B**) to cool. Rooster (**C**) recognizes his wife in salad and is overcome with grief. His tears (**D**) saturate sponge (**E**), pulling string (**F**) which releases trap door (**G**) and allows sand to run down trough (**H**) into pail (**I**). Weight raises end of see-saw (**J**) which makes cord (**K**) lift cover of ice cream freezer (**L**). Penguin (**M**), feeling chill, thinks he is at the North Pole and flaps wings for joy, thereby fanning propeller (**N**) which revolves and turns cogs (**O**), which in turn cause turkey (**P**) to slide back and forth over cabbage-cutter until it is sliced to a frazzle.–

Don't get discouraged if the turkey gets pretty well messed up. It's a cinch it would have eventually become turkey hash anyway.

Ms. Spain. More simply stated, it is like the flood control officer who complained that it is difficult to remember that you are trying to drain the swamp when you are up to your rear-end in alligators.

I appreciate the opportunity to speak to you today, and I would be happy to respond to any questions you may have.

Mr. Ireland. Thank you Ms. Spain. I am indebted to you for this cartoon. I probably ought to have it up on the board as well as the graph, and I am impressed that it also kept to our turkey theme. You have got to deal gently with those alligators; that is like that grapefruit juice. That comes from my territory. [Laughter.]

Miss Baehr, would you please give us your comments?

TESTIMONY OF BONNIE BAEHR, ADMINISTRATOR, CHILD NUTRITION PROGRAMS, NUTRITIONAL DEVELOPMENT SERVICES, ARCHDIOCESE OF PHILADELPHIA, PA.

Ms. Baehr. Mr. Chairman, my name is Bonnie Baehr and I am the administrator of child nutrition programs for Nutritional Development Services of the Archdiocese of Philadelphia. I have a staff of seven, a budget of $1.5 million, and the responsibility for the national school lunch program, school breakfast program, special milk program, school food service equipment program, nutrition education and training program, and summer food service program for children for the Archdiocese of Philadelphia. In conjunction with the national school lunch program and previously with the school breakfast program, we have been involved with

Government donated commodities, and that is what has brought me here today.

Since its adoption for school use in 1946, the commodity program has been, at best, a mixed blessing to the school community and the business community alike. As a school food service director feeding 6,000 children a day and an appointed member of the Pennsylvania State Commodity Advisory Council for the past 1½ years, I would like to tell you why this has been true for us.

As background, I would like to explain that the lunch program at the Archdiocese of Philadelphia utilizes a preportioned frozen entree pack purchased under contract with a vendor, to which we add locally purchased accessory items such as bread, fruit, milk, and other components necessary for a reimbursable meal. Any of these areas may contain commodities with the exception of milk.

I mention this because it means almost all of the commodities that I use have to be processed after I accept them and before I can use them.

This brings me to the problems inherent in the commodity program and its application to our operation. In general, over the past 8 years, I have found that many offered commodity items are of an eating quality inferior to what I would normally purchase. This is particularly noticeable with vegetables that are often of a lower grade. I normally serve grade A vegetables—I almost always get grade B from commodities—and meat formulations such as turkey roll—which we have already discussed today—which is visibly different from what I normally serve to the children.

USDA specifications for purchase do not contain bacteriological standards. All of my specifications do, and while this does not necessarily indicate the presence of bacteriological problems, it does, however, indicate less control in an area in which I feel the stricter the control, the better. With commodities, I am not able to exercise my usual caution prior to purchase. I am merely allowed to test at my own expense, after acceptance, a situation which often give rise to the Catch-22 of attempting to return unacceptable commodities to the Government. A typical fiasco of this genre may involve a vendor/processor, a school district, a subdistribution agency, the State agency, and the regional office, USDA, all trying to affix the blame to someone else as to just at what point in its usual travels of many miles the commodity became unacceptable. These discussions continue while the offending commodity sits useless in the vendor's facility, delaying further action on a menu item on which action has already been delayed because the commodity substitute was offered in the first place.

It is my understanding that the Department of Agriculture generally purchases based on lowest price. Unfortunately, this often becomes obvious to the most important people in the program—the children. In school year 1975–76, utilizing 100 percent of our commodity allocation, we lost 21 percent of our participating children, dropping from 6,100 meals a day to 4,800 meals a day. The main complaint was the quality of the food. We changed suppliers and realized a short spurt of increased participation. However, again as the utilization of commodity items increased, our participation decreased. In the past 3 years we have had a very tightly controlled use of commodities and have been gradually gaining back our lost participation. Complaints about food quality have become nonexistent. This would seem to indicate that our participation appears directly linked to the amount of commodities we use.

A second major area of concern is the timing of the receipt of commodity items. Even USDA purchase forecasts and market conditions cannot necessarily determine which items will be supplied to a particular school district at any given time. This creates a difficulty in purchasing through normal channels and can often lead to overutilization when commodity allocations follow already completed purchase of a particular item.

As an example, about 2 weeks ago, we purchased all the apple juice we will need from now until the end of the year. Within a week we received 65 cases on an allocation from the commodity office.

Add to this a slow distribution of commodities through the first quarter of the school year and the tremendous amounts released in the last quarter of the school year, and you are obtaining a completely unique and extremely inefficient product flow. In addition, school districts are often saddled with increased storage charges and in some cases duplicate charges, since it can become necessary to maintain two inventories of the same product. Under normal circumstances we would not purchase this way.

Further complicating the storage issue is that I, as a school food service director, do not have a choice in the storage facility from which I receive my commodities. In Philadelphia I am fortunate since our regional warehouse operates efficiently. But from my experience on the State advisory council, I am aware that many of my colleagues do not fare as well. They are forced to deal with storage facilities that add to their costs by poorly scheduled pickups, insufficient dock areas, extremely long lines, and many lost personnel hours.

In a related area, during the past school year, our State has even experienced two instances where quite desirable commodities were turned down by the State agency reputedly because of negative reactions from the warehouses. Wasteful practices are not limited to warehousing of commodities. Many USDA products are supplied through sole source contracts causing adverse effects when items are repeatedly substandard. This method of purchasing limits me, since I can change most aspects of the program to meet the needs of my children, except for the foods purchased by the Government in these one-source situations.

In addition, many processing contracts are tied to one processor—that's the turkey roll that we have just mentioned. This lack of competition produces the obvious results. And in many cases the products supplied have little or no bearing on the general needs of my program. This is despite surveys of preference which are supposed to address this issue. In Philadelphia it is important that I supply a pork free menu. Large Government purchases of ground pork and subsequent allocations, yield no value to me at all.

And even though the days of our large peanut allocations are behind us most of us will remember that while USDA was issuing a plethora of roasted peanuts, on the one hand, on the other they were refusing to allow us to use them to count against the protein requirement for the program. What we had in effect was a commodity of negative value—storage and transportation charges for an item that had no benefit to the program. Milled rice and bulgar wheat are two other commodities that can present problems for me. They are not extremely popular among children in general, and inner-city children in particular. Any benefit derived from the cost of commodities can only be relevant to the value of that commodity to my program.

Hidden waste also presents its problems. The impracticability of certain Government purchases lead to various methods of financial loss. For example, the Government's purchasing of processed cheese in blocks rather than presliced, can result in a slicing loss of up to 15 percent. The standard in the industry is to buy processed cheese already sliced; I would buy cheese already sliced. The Government buys blocks. Another example is ground beef. The supplier I am using uses boneless beef as raw material for hamburgers, and other similar items. USDA purchases boneless beef but it is further processed into ground beef before I receive it. The money that the Government pours into getting processed what I can use as raw material represents a loss against my entitlement that can run as high as 30 percent. Even direct processing of commodities that I have done myself results in a larger loss than I would normally incur since many items are not in packaging conducive to mass production. Opening 29 ounce cans or No. 10 cans of product for a company used to dealing in 50-gallon drums, translates into a substantial cost factor. So much so that even when we were at our peak of acceptance, and taking in 100 percent of our allocation, we were losing up to 50 percent of our entitlement in processing charges.

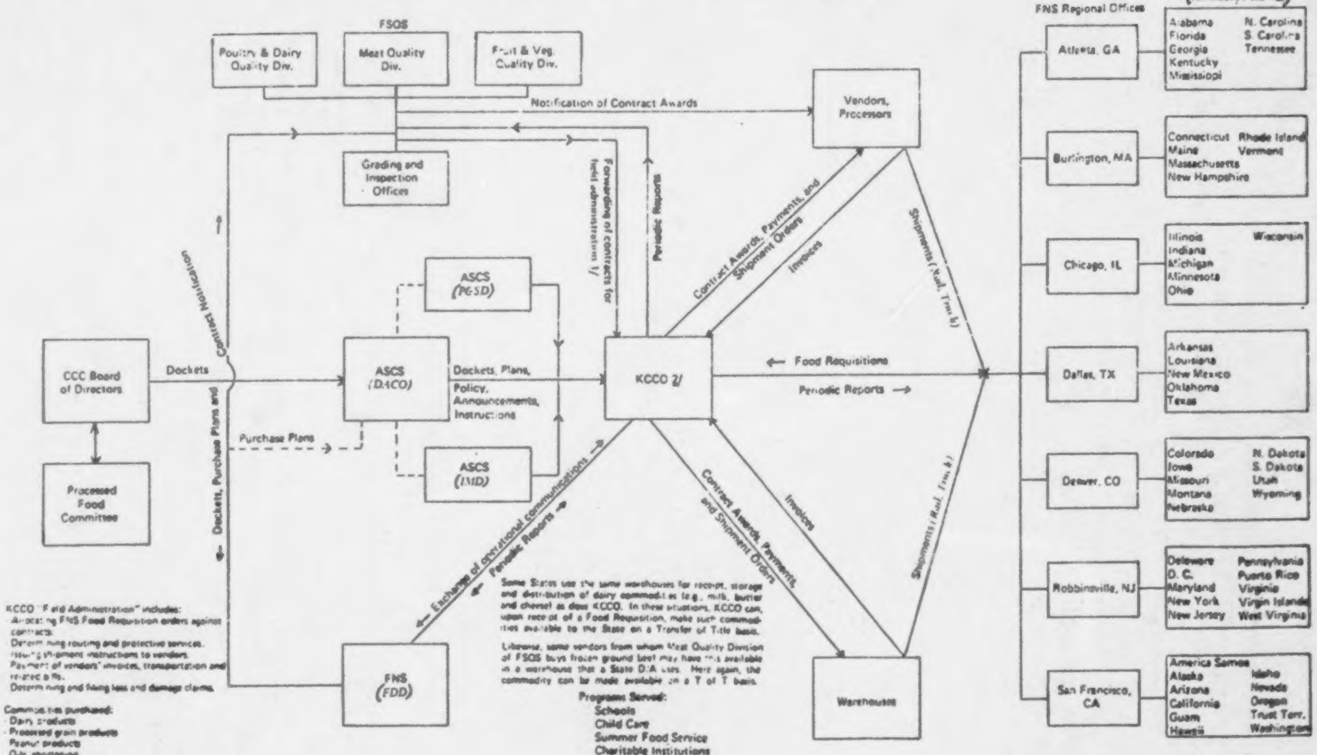
In essence, what I have is 20 percent of my program being purchased by a purchasing agent that does not work for me and does not have the best interest of my program as a foremost concern. Under normal circumstances, I would release such a purchasing agent. Under present circumstances I am powerless to do that and must continue rejecting problem commodities, adjusting to compensate for borderline commodities, and even with optimum commodities, losing high processing fees because, as I stated earlier, often the best things come in the smallest packages.

Since it is about this 20 percent of my program that I am so concerned, I would like to briefly expand on this 80/20 ratio that so affects the national school lunch program. Why does the Government consider me capable of purchasing 80 percent of my program and not the remaining 20 percent? Why do they allow me to receive 80 percent of my purchased food through the normal channels of trade but insist that the remaining 20 percent be supplied through the elaborate and expensive network for purchase and distribution of commodities? A chart of which I have included at the end of this statement.

Mr. **Ireland**. Without objection, that will be inserted into the record at this point.

[Chart referred to follows:]

Commodity Purchases and Distribution for FNS Feeding Programs


FSQS
Poultry & Dairy Quality Div.
Meat Quality Div.
Fruit & Veg. Quality Div.
Grading and Inspection Offices
Notification of Contract Awards
Vendors, Processors
Forwarding of contracts for field administration 1/
Periodic Reports
Contract Awards, Payments, and Shipment Orders
Invoices
Shipments (Rail, Truck)
CCC Board of Directors
Processed Food Committee
Dockets
Contract Notification
Dockets, Purchase Plans and
Purchase Plans
ASCS (PCSD)
ASCS (DACO)
ASCS (IMD)
Dockets, Plans, Policy, Announcements, Instructions
KCCO 2/
← Food Requisitions
Periodic Reports →
Exchange of operational communications
← Periodic Reports →
Contract Awards, Payments, and Shipment Orders
Invoices
Shipments (Rail, Truck)
FNS (FDD)
Warehouses
FNS Regional Offices
States
(All Except Kansas)
Atlanta, GA
Alabama
Florida
Georgia
Kentucky
Mississippi
N. Carolina
S. Carolina
Tennessee
Burlington, MA
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont
Chicago, IL
Illinois
Indiana
Michigan
Minnesota
Ohio
Wisconsin
Dallas, TX
Arkansas
Louisiana
New Mexico
Oklahoma
Texas
Denver, CO
Colorado
Iowa
Missouri
Montana
Nebraska
N. Dakota
S. Dakota
Utah
Wyoming
Robbinsville, NJ
Delaware
D. C.
Maryland
New York
New Jersey
Pennsylvania
Puerto Rico
Virginia
Virgin Islands
West Virginia
San Francisco, CA
America Samoa
Alaska
Arizona
California
Guam
Hawaii
Idaho
Nevada
Oregon
Trust Terr.
Washington

Some States use the same warehouses for receipt, storage and distribution of dairy commodities (e.g., milk, butter and cheese) as does KCCO. In these situations, KCCO can, upon receipt of a Food Requisition, make such commodities available to the State on a Transfer of Title basis.

Likewise, some vendors from whom Meat Quality Division of FSQS buys frozen ground beef may have this available in a warehouse that a State D/A uses. Here again, the commodity can be made available on a T of T basis.

Programs Served:
- Schools
- Child Care
- Summer Food Service
- Charitable Institutions
- Summer Camps
- Needy Families
- Supplemental Food
- Elderly
- Disasters

1/ KCCO "Field Administration" includes:
- Allocating FNS Food Requisition orders against contracts.
- Determining routing and protective services.
- Issuing shipment instructions to vendors.
- Payment of vendors' invoices, transportation and related bills.
- Determining and fixing loss and damage claims.

2/ Commodities purchased:
- Dairy products
- Processed grain products
- Peanut products
- Oils, shortening
- Rice

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Ms. BAEHR. Why does the USDA continue to encourage a program that is totally overregulated, that interrupts the normal supply line, whose paperwork burden alone out weighs the benefits to many small businesses and can actually restrict or discourage them from participating in this 20 percent of the school lunch market when they are capably supplying the remaining 80 percent?

Many alternatives to the present system have been suggested. The simplest is to cash it out. In this instance the school district and therefore the children would receive the benefit of their full entitlement, unencumbered by useless products, limited suppliers, and exorbitant processing fees. This could lead to the dismantling of the costly artificial food chain established for distribution and some reduction of the bureaucracy necessary for its operation.

A more balanced alternative, however, would be the institution of a letter of credit or similar system that would preserve the historic relationship between the agricultural community and the school feeding program. As far as the school district was concerned, this would essentially accomplish the same results already mentioned for a cash out. Additionally, however, agricultural stabilization could still be maintained since USDA would continue to specify the commodity, program, quantity, quality, time period for purchase, and amount to be spent. Surplus removal and price support could still be guaranteed. Minimum quality specifications would safeguard the integrity of the product while still allowing me to purchase higher grades if I so desired and deliveries could be spaced to allow for a more efficient flow. Purchasing could be done at the local level, through normal trade channels, allowing for the increased participation of small businesses thereby stimulating competition which would result ultimately in improved product and cost effectiveness.

I realize that this is beginning to sound like the house that Jack built, but the domino effects in the present distribution system can no longer be ignored. The myth that a program geared to agricultural support cannot be a viable, functioning successful part of school feeding can be dispelled if the proper people take the proper steps at the proper time. I hope we have begun that today.

Thank you for the invitation to address you today.

Mr. IRELAND. I think you two ladies deserve a standing ovation. You would not get it down at the USDA but you would certainly get it right here. That is really exceptional.

Mr. Weber, have you got a question or two?

Mr. WEBER. No; I am sorry, I did not hear the entire testimony but what I heard is certainly very interesting.

Mr. LYNCH. Are both of you members of the American School Food Service Association?

Ms. BAEHR. Yes.

Mr. LYNCH. Does the association share your views or do they have another view?

Ms. SPAIN. I think the association does not share our view and I think it has already been expressed this morning that they have deeper fears that if the commodities are taken from us, so will the financial assistance that they represent, and so they are fearful to try or to back what we are doing.

Mr. LYNCH. Would you say that a lot of other members of the association, however, share the view that you have stated here today?

Ms. BAEHR. Yes, sir, I would. I would also say that they definitely share the problems but they are unwilling to consider the alternatives because their fear is that if it were changed to a cash program, it would be cut just away from—you know, they feel the agricultural link is what keeps that funding intact.

Mr. LYNCH. Now following that up, in your testimony you indicated the great drop-off in the number of meals that you were serving the archdiocese, after the commodity program really stepped up in 1975 and 1976. Since then you have built it up again. It is your belief, from your experience, that if we went to a system for example, of all cash that you could build that up back to its former levels?

Ms. BAEHR. Yes; we are just about at the former levels now and we have changed nothing else in the time period except the use of commodities. We are rejecting a great amount of commodities right now simply because we would not use them.

Mr. LYNCH. In preparing these hearings several people said to me, the problem that we would find, if you went to all cash is that people in large metropolitan areas, would perhaps be able to buy a lot of the commodities cheaper because of the competition in those areas, whereas if we went to rural school district areas it would be the reverse there. They would probably have to pay more because there would not be that amount of suppliers. Do you believe that argument has any validity?

Ms. SPAIN. No, sir, I do not. I think that it is possible for small counties to go together to form a cooperative purchasing situation, and I think that there is enough competition—at least in my area—and it certainly might bring more competition out than we have now, because it has already been stated that a lot of vendors will not pay any attention to us, because they cannot afford to get into tight financial situations. They are not big either so they cannot afford to have their warehouses full of food that we have ordered, and then do not use because the commodities will come through.

Mr. LYNCH. Now have you instances where vendors have had to wait for their money because you had to wait for your money?

Ms. SPAIN. Yes, sir.

Mr. LYNCH. Mrs. Styer earlier alluded to that problem although I believe they had not actually contracted with the vendors, I think the vendors had just anticipated, if I am correct, that they would need the goods. Have you had that problem also where payments were late to vendors you dealt with?

Ms. BAEHR. Yes.

Mr. LYNCH. Same problem.

Ms. BAEHR. Same problem. With regard to the other issue about urban versus rural, although we service a largely urban area, we are servicing 45 schools, which accounts for our 6,100 children which is an incredibly small program for an urban center. Along with that I would like to say that we are only talking about 20 percent of our program. When this idea of benefits was brought up rural areas were already purchasing 80 percent of their program among normal channels, and I am quite sure that they would be capable of purchasing the remaining 20 percent along with bulk of their program.

Mr. **IRELAND**. They have got an advantage; Ms. Spain has got the dairy across the street. You don't have that down in Philadelphia.

Mr. **LYNCH**. Another question on the delivery of the commodities. For example, the turkey-cheese sandwich—when the commodities come from the Federal Government to the State warehouses in Pennsylvania—the Federal Government would pay transportation charges, and so forth, to that point, is that correct? Then it is either the State or local school districts who then pick up all expenses from there if it is sent to a processor, and so forth.

Ms. **SPAIN**. That is my understanding.

Ms. **BAEHR**. We pick up the expenses at that point.

Mr. **TOPPING**. Either of you, do you think the surplus commodities will be purchased by the schools if they are put on a cash or voucher system?

Ms. **SPAIN**. Yes; I do because if the product is surplus it stands to reason that the supply and demand will bring the price down to make it attractive to meet a purchase. That is simple, basic, marketplace economics.

Mr. **IRELAND**. Too bad that is forgotten in this city so often.

Mr. **TOPPING**. Do you think the Department of Agriculture will be able to dispose of the surplus commodities through the school system or other channels would be able to dispose of the surplus commodities?

Ms. **SPAIN**. Yes, sir; if it is surplus. If it is a product that is not popular it will not be purchased and perhaps the production of that particular food item will drop in favor of a product that is acceptable.

Mr. **IRELAND**. One question, Ms. Baehr. To what extent do you have the ability, under your operation, to accept or reject commodities? Is it any different than any other school district?

Ms. **BAEHR**. No; it is not any different.

Mr. **IRELAND**. You are just making them shape up?

Ms. **BAEHR**. At this point I am entitled to approximately $130,000 worth of commodities. This is now the end of April and I—well last year, for example, I accepted $26,000 worth.

Mr. **IRELAND**. You are just doing a better job of it?

Ms. **BAEHR**. Well we met several times with the State commodity people trying to tell them of our needs, trying to get them to make their purchases more wisely with items that we could use, and it just does not seem to be going anywhere so we are rejecting them. I am waiting for them to find out.

Ms. **SPAIN**. May I add one comment. To the participation on the days that we serve Government products we just pray that enough are going to eat to make the payroll. So that if it is a menu of sliced turkey and mashed potatoes and other foods that are not popular our participation drops on that day so we have a fluctuation like this. [Indicating.]

Mr. **IRELAND**. Perhaps we should have a program of making the folks down at USDA step out to lunch to see what people really like.

Mr. LYNCH. Ms. Spain, going back to your testimony, you said every April the same thing happens. All these commodities arrive and they are stored for the summer and they are perishable. Are complaints made yearly? Do you complain and is there any response from USDA when you complain and say: "Do you have to deliver these in April?" Does the system respond?

Ms. SPAIN. I am not Kentucky's favorite child. [Laughter.] Just let that rest, will you?

Mr. LYNCH. OK. Thank you.

Mr. IRELAND. Thank you two very much, it has been important testimony and we appreciate it.

[Brief recess.]

Mr. IRELAND. The next witness is David Page, director of food services, board of education, city of St. Louis. We are delighted to have you here.

TESTIMONY OF DAVID R. PAGE, DIRECTOR OF FOOD SERVICES, BOARD OF EDUCATION, CITY OF ST. LOUIS, MO.

Mr. PAGE. Thank you, Mr. Chairman and members of the subcommittee.

I guess I ought to also promise not to mention alligators, orange juice, or grapefruit juice—although we buy a lot of the last two items.

The presentor of this testimony is appreciative of the opportunity to discuss the purchase and distribution of commodities by the U.S. Department of Agriculture and the committee representative. Mr. Lynch presented areas the committee wanted to explore and hopefully this testimony would touch on some of these areas.

I have been privileged to testify before many of the subcommittees from time to time, and I testified before the Subcommittee on Elementary and Secondary and Vocational Education on March 19, 1980, and was introduced in making that presentation by my own Congressman, Richard Gephardt of Missouri. The testimony being presented to you today, sir, is exactly the same material except it is being updated and I am having a few facts added for clarification. Also it has been amended in order to relate to the five concerns presented to me by your committee chairman.

As the testimony is presented some other comments are added that hopefully will give this committee some ideas of our current concerns relating to school food service and child nutrition programs. Although the cash-in-lieu-of-commodity program is important to small business, a far more important problem could evolve if the child nutrition basic aid is eliminated. As you know, the Reagan administration's proposal is to eliminate that basic aid and this is a major concern to me as a professional food service person, and a child nutrition activist, for a period covering five decades. I hope you do not want to try to assist me from the table after that but that is a true statement.

Incidentally, the Federal Government has provided basic assistance of some kind over all these years.

It is a known fact that although commodities play a major role in child nutrition programs, 80 percent of all foods used on school lunch are purchased in local channels of trade, and to strip basic aid away will mean the demise of the program in many areas, and the students will be without service, and certainly the small business operators will feel this all over the Nation.

The proposed cuts in child nutrition are simply not fair across-the-board cuts. In the nondefense Federal budget, the cuts are about 10 percent for the child nutrition programs and they are almost four times that level. A 10-percent reduction in child nutrition funds would require belt tightening, but it would not destroy the program. School food service professionals are prepared to do their part in working with the administration on budget cuts, but the American people certainly did not give their approval to taking food out of the mouths of children.

Now to the testimony of cash in lieu of commodities and our experiences in this regard. The St. Louis school district was a participant in the cash-in-lieu-of-commodity study conducted by the Food and Nutrition Services of the U.S. Department of Agriculture during the 1978–79 school year. Our participation in the study provides firsthand experience which forms the basis for the comments contained in this testimony.

St. Louis was the largest system involved in the project. Other participating districts were as follows: Boise, Idaho; Dayton, Ohio; Chipley, Fla.; Jonesborough, Ark.; Oakland, Calif.; Riceville, Iowa; and Williamsville, N.Y.

As the largest district in the study we received a total of $1,139,692.11 cash-in-lieu-of-commodity funds that year, which were paid at the rate of almost 14 cents per meal for lunch and 3 cents for breakfast. Representatives from three of the eight districts, Dayton, Oakland, and St. Louis, made presentations on the program of the National Association of Meat Purveyors, on March 10, 1979—that was in the middle of that trial period—in Dallas, Tex. All of these individuals spoke with accolades concerning the use of cash versus commodities, particularly with regard to the flexibility this offered on menus and food preparation. Just to paraphrase, two of the participants, in a manner that I feel best summarized their attitude, Frances McGlone of Oakland, Calif., stated, "Happiness is cash in place of commodities." Also, Betty Bender of Dayton, Ohio, said, "I dread the thought next year of the return to commodities." My own comments, verbatim, on the program are indicated below:

I had a telephone call yesterday from Betty Bender of Dayton who indicated to me she heard that maybe the program that was starting next year of cash-in-lieu-of-commodities is not going to happen, and I said I do not think that is true. I know it is going to happen.

An experiment with cash versus commodities, in my judgment, seems ridiculous. It seems that it would be apparent what the attitude would be. However, since I was courteously invited to give objective comments, I shall do so, and perhaps share an analogy with you.

The analogy is somewhat like asking your teenage child if he would like to experiment with a new car of his own. You have an idea what his viewpoint, or attitude is going to be before he goes into it. You think he is going to like it.

Cash is extremely flexible. It stores easier than commodities. It is like the bank paying interest on your inventory. Cash is far more negotiable than inventory, and therefore, you have more menu flexibility. Cash does not spoil. It is not restrictive and everyone or anyone we do business with is never negative about accepting cash.

I recognize that commodities are one of the pillars of the school lunch program in America. Yours truly has been associated with the St. Louis activities in the St. Louis schools since January 6, 1941, as food service director since mid-1943. For the benefit of those who do not want to do the arithmetic, that is 40 years plus. This is the longevity that I previously mentioned. A career that spreads over five decades from the forties to the eighties.

The school lunch program started as a permanent program in 1946. Prior to that time, beginning around 1937 at the tail end of the depression in the late thirties and early forties until Pearl Harbor—that is really when the Great Depression ended—the school feeding programs were conducted on a temporary basis.

The earliest aid came from reconstruction finance corporation in 1932 and 1933 when it granted loans to several towns in southwestern Missouri to cover the cost of labor employed in preparing and serving school lunches. This Federal assistance was expanded in 1932 and 1934 under the operation of the Civil Works Administration and the Federal Emergency Relief Administration and reached into 39 States.

It was not until the Works Progress Administration, that substantial contributions from Federal sources for lunch program operations became available. This agency was created in 1935 about the same time as the initial legislation proposed by Congress regarding the distribution of surplus foods for school lunches to provide work for needy persons on public works projects. School lunch work was assigned to the Community Service Division of WPA and the preparation and serving of school lunches became a very ready area of employment. By March 1941, the WPA's school lunch program was in operation in all States and the District of Columbia, as well as Puerto Rico. They reached 23,160 schools and served nearly 2 million lunches per day. Today the lunch program serves approximately 27 to 28 million meals per day.

The effects of World War II brought the WPA operations—and incidentally I was involved in those—to a halt by the early part of 1943. This did not signal the end of the school lunch program, merely a change in direction and focus. From 1935 to the present there has been a continuous string of laws which have dealt with the feeding of schoolchildren of the Nation.

Along with all this legislation, certain sections of the National School Lunch Act, section 6 and section 32 of Public Law 74-230 (1935), earmark portions of U.S. Custom receipts for use by the Secretary of Agriculture for the purpose of purchasing commodities. Another act, the Agricultural Act of 1949, contained section 416, which is the basic authority for donation of commodities previously acquired by the Commodity Credit Corporation. These are the bugaboo's as far as your organization is concerned. Meat is really a large item in the surplus removal program of the Secretary of Agriculture. Some facts I have reviewed indicate as much as 100 million of the 400 million of purchases in fiscal year 1976. The purchases for fiscal year 1979 are expressed in an entitlement to the State of 571 million. In 1946 the National School Lunch Act was adopted on a permanent basis. The program, at that time, was organized with two distinct purposes in mind:

One, to provide improved and better nutrition for children attending school; and

Two, to provide an outlet for surplus commodity foods.

The thought being that it's better to provide food for nutrition of boys and girls than to discard, burn, or throw into the river, surplus commodity foods. It was the practice to discard surplus items, in the manner stated, in the early depression days. Therefore, it appeared this was a commendable and laudable use of surplus items. However, things changed. The USDA seems to have embarked through the years, on something more than surpluses. That is abundant items and items in excess. These place certain value judgments on that which is abundant in the trade or something in excess.

This probably is the root of most of the problems. A value judgment is made that the item—let us say beef—is abundant, the Department buys and the local surveyor feels the severe impact of this all over the Nation. This is not isolated to beef but could be said for canned fruit and vegetables, fresh fruit and vegetables and the whole gamut of commodities.

According to the USDA the best definition of what a surplus is, is stated as follows: It is whatever the Secretary of Agriculture says it is. There does not appear to be a concrete definition of when a surplus occurs. One idea obtained from material I have studied, such as the Monthly Food Marketing Alert published by the Agriculture Marketing Service, defines commodities as: One, plentiful: more than enough for requirements; two, adequate: enough to meet needs; three, light: less than adequate. Not enough for normal needs.

If I could stress for anything, I would suggest the Department work only on surplus removal and this should be very definitive as to why, when, and how to make purchases. Then give the other cash to local school districts to make their purchases in the usual manner in which these are done on competitive bids, and all will be happier with the results.

Two of the items the committee chairman asked me to relate to are covered in the attachments, and there are two attachments hereto, and I would apologize to you. On attachment No. I, I failed to put a heading on there and that is 1979–80 information so if you could do that for me I would appreciate it. But it gives an objective comparison of what the USDA prices were of food items on attachment No. I, in 1979–80 from our own State Department, and then the St. Louis cost of all of these items. This is an objective comparison and you just can run down the list. We do not win in all cases and we do not lose in all cases but you can see the information.

Attachment No. II is explained in this way. It is just facts. There is no conclusion that can be drawn from what I have presented to you. This covers the actual expenses as noted. If we did not have surplus we still would have had a large expenditure for storage but it is kind of a hodgepodge of information, but is the kind of information that you asked for, so I present it to you.

Mr. IRELAND. Without objection, that will be inserted into the record at this point.

[Attachments 1 and 2 follow:]

[Attachment No. 1]

COST OF USDA PURCHASED AND DELIVERED COMMODITIES COMPARED TO LOCAL PURCHASES OF THE SAME FOODS

Product	Per pound—	
	USDA cost	St. Louis cost
Canned applesauce	0.2482	0.2288
Canned green beans	.2582	.2240
Canned corn	.2317	.2080
Canned peaches	.3130	.3680
Canned pears	.3575	.4320
Canned peas	.2481	.2880
Canned pineapple	.3458	.4160
Potatoes, frozen french fries, oven	.2525	.3700
Potatoes, reds, frozen	.2717	.4100
Sweet potatoes, cnd. syrup	.3139	.3200
Tomato catsup	.2167	.2240
Tomato, canned	.2311	.2880
Beef, frozen, ground	1.3646	[1] 1.3750
Cheese, processed American	1.2894	1.1911
Flour, bread	.1225	.1368
Macaroni, enriched	.2650	.2900
Milk, nonfat dry	.8037	.7500
Oil, vegetable	.4727	[2] .5187
Rice, milled	.2350	.3100
Shortening, vegetable	.4737	.4100
Spaghetti, enriched	.3100	.2800

[1] Average.
[2] Corn oil not soybeans.

Two major items, cheese and ground beef, are less, or just slightly more, than USDA product and probably constitute a major portion of the commodities. Please note the prices, except in a few instances are not too different; potatoes seem to be the only exception.

[Attachment No. 2]

COST OF WAREHOUSING, STORAGE, FURTHER PROCESSING AND DISTRIBUTION OF COMMODITIES PURCHASED BY USDA

The cost of cold storage rental space for the school year 1979–80 amounted to the following:

Board of education storage cost	$54,654.87
State department of education cost	[1] 8,888.10
Total storage cost	63,542.97
State cost of handling, service charges, et cetera	16,591.12
Total storage and handling cost	80,134.09

[1] The State department of education pays for the first month of storage.

The Board of Education storage cost above includes cost for storage of both surplus government items and Board purchased items. This figure includes only outside cost for storage, and, therefore, does not include an amount for use of its own warehouse space.

Mr. **PAGE**. In our system, where we have a convenience foods kitchen, a central commissary that packs 35,000 meals a day, we would have more flexibility if we had cash-in-lieu-of-commodities. One key point I would like to make here would be that we would prepare our menus based on local preferences and wishes. We would run these items through that center, instead of gearing our menus to the commodities given to us, and then we are always in the gamesmanship of attempting to work the item into our plan of operations.

Someone, or somebody, suggested processing contracts, and I think the best thing I can say to you is, let me assure you that is no panacea. It increases overall transportation costs and is another large portion of paperwork and redtape which we both must deal with. In addition it is not a good deal for the district, the taxpayer, or the purveyor.

In summary, the St. Louis district, its supervisors, the directors, the students—its customers—and everyone is satisfied and pleased with the cash-in-lieu-of-commodity program. However, we need to be realistic, there will be surplus foods and a good outlet is the school lunch program. However, it seems the department too far and a compromise would be the best route to follow. The compromise, I suggest, could take the form of very definitive guidelines for the Secretary of Agriculture to follow when making surplus removal decisions: How, when, and under what conditions. The guidelines could involve a cash voucher plan that the local schools could use which would give the local district the flexibility of making millions in purchases across the Nation in local distribution channels. It would offer the flexibility of cash, would be as usable and adaptable as cash on our menu preparation and this could be, not a panacea but hopefully a compromise that would be more palatable to everyone. The industry, the school lunch people, legislators, and last but not least, the students.

The National Frozen Food Association also had representation at the Dallas program of the National Association of Meat Purveyors, and their representative advised that they too were interested in a voucher or letter of credit system. Some common dialog emerged and I have seen, from this association, a proposal for such a system. This proposal seems to offer a compromise that could, in my judgment, offer flexibility. A smoother removal and availability of product and at the same time provide an ingredient of local determination that is woefully lacking in the present commodity program.

The idea of the National Frozen Food Association seemed to have merit. Particularly when you visualize this as more flexible than the present commodity removal program. The local option is the flexibility factor that would be beneficial. In other words, to opt for the frozen food proposal was to move to something more closely resembling cash from the old program, which offered problems as cited in the following:

The St. Louis system received an abundant supply of cooked chicken. The chicken is frozen, cut in portions and works particularly well in our preportioned, prepacked meal. We requested cooked, fried chicken in place of frozen, uncooked merchandise and the State of Missouri commodity section worked with the Department of Agriculture office and they accompanied us accordingly. However, in using the product we have had some observations and complaints which are shown below:

One, breading is too heavy and does not have a good flavor;

Two, because of heavy breading the oven method does not yield a crisp crust. Deep frying produces a better crust but takes longer;

Three, chicken is too large and consequently, pieces are tough;

Four, difficulty in warming the product because of size;

Five, product not cooked thoroughly in some instances. And I know you know what I mean. That there would be blood at the bone in instances.

We forwarded a letter to our State director concerning these observations on December 13, 1979. They forwarded an inquiry to USDA with a followup by our State director sometime later, and at the time of my previous testimony had received no response, nor had any conversations with the Department of Agriculture concerning this problem. Since that time we have had some dialog during this year, but again it is not like if we had purchased it ourselves on our own specifications. If we had locally purchased this item, on our own contract and bond, we would have been in conversation and correspondence with the supplier. This happens frequently in food procurement and corrections, resulting in better product and/or credits normally evolve.

We had a somewhat similar problem with french fries. The original product supplied by USDA was not acceptable. The product absorbed a lot of grease and became soggy, and because they were already prebrowned, they became very dark in the fryer before being warmed thoroughly. We entered into verbal discussions with our State people, and a better produce is now being received. I would like to think this resulted from this dialog, but I do not know. In our own purchasing system we would have had a satisfactory product under our own taste testing panel.

We have received canned chicken which is mushy, stringy and the heavy chicken fat makes the product taste old. This product was hard to work into menus. Even soups and chicken salads. In other words, it is bad. We have not entered a complaint because we just have not received the kind of satisfactory feedback that we thought we should on the cooked chickens. So you sometimes say, "what's the use?" A similar comment could be made with regard to the canned beef. A hard item to work into acceptable use. We had some dialog about that canned chicken and they told me that was "spent chicken." I do not know what a spent chicken is. I have an idea but that is not what we will talk about today.

Excuse my alleged sense of humor, Mr. Chairman.

We received 1,029 cases of corn, six No. 10's to the case. This merchandise was received during the week of March 3–7, 1980, and was available for use during the remainder of the school year. Now you know that there is not a lot of school year left after that. We had an offering of canned corn made late in August 1979, by USDA, through our State office. This was offered as a replacement of merchandise removed during our experimental year on cash-in-lieu-of-commodities. That was 1978–79. All during the 6-month period to early March, we heard nothing more about the product. So on our own contracts, we ordered corn. We had an order of corn which we inquired about canceling, since we now had 1,029 cases. You can imagine that supplier's enthusiasm for doing that was under control. And the firm indicated it could not be canceled without a severe hardship. So we accepted delivery. This is inefficient and gave us an excessive amount of product for carryover. In fact, our total commodity carryover amounted to $642,000 on June 30, 1980.

Just as an additional footnote our carryover of all other foods amounted to only $286,043.80. This, it seems, indicates the unrealism of the huge quantities of Government items received too late in the year.

Our State office, in a monthly newsletter in the spring of 1980, had a section entitled "commodity shelf." A section of this newsletter is quoted below:

> Concerning delivery dates—please keep in mind that the listed delivery dates are anticipated. Delivery could be made earlier, or later, than the dates shown due to a number of things, but the primary cause is a change in shipping dates from the processor to the state, which happens frequently.

I am quoting from the State letter.

> Because of these changes, it is possible to have a very high concentration of shipments into the state in one or more consecutive months, such as happend this year. In the past three months (December through February) we received into the state, approximately 21 million pounds of over 3S different commodities. This compares to 29 million pounds of 28 different commodities received during the entire 10 months last year. This large volume in so short a time naturally places a heavy burden upon the delivery contractors (and of course the school districts) to accomplish timely delivery. Progress is being made in working through this peak period, and we are continuing to work with the contractor in improving the service.

Now, you know, most of this is directed toward the contractor but it is from the States, you know.

Please note that during the months December through February 1980, we received into the State approximately 21 million pounds of product, whereas this compares to 29 million pounds during the entire 10 months of last year.

This causes staggering logistical problems. Excessive storage costs, and is just plain inefficient. And in the mean time we are buying products such as corn.

These examples are experiences that we feel cite some of the problems with commodities. Our feeling is that over the years the commodities have generally been good. Have been helpful in providing nutrition, but we feel it can be better. The examples cite some of the reasons we feel it could be vastly improved in our judgment, with a letter of credit system, or some cash in lieu of commodity system.

It seemed the compromise legislation, "Letters of Credit," offered an alternative that could provide more efficiency to the commodity program. The school lunch program has been efficient. It has a good track record in providing good nutrition to boys and girls, and an activity within this framework that causes these problems, some management difficulties, as well as causing some waste could seriously jeopordize this very worthwile program.

This program offered local autonomy on a procurement plan that would provide flexibility, control, and better management, and thereby enhance the image of food service, and the child nutrition program, locally, regionally, and nationally.

Remember the words of Frances McGlone: "Happiness is cash in place of commodities."

The passage of legislation in the closing days of the 96th Congress, wherein Congress approved two bills which included provisions to conduct a 3-year pilot study of cash and letter of credit in lieu of commodities, provides our district, under a grandfather clause with the opportunity to have cash for 3 years, plus an optional year and we are therefore returning to cash for this 4-year period.

The districts who previously experimented in the 1978-79 study—Boise, Dayton, Oakland, and St. Louis—are united in the return because of our 1-year experience. The smaller districts could also feel the same, but I have not been in touch with them.

Mr. Chairman, I appreciate the opportunity afforded me here today to testify before this committee on an activity, child nutrition, that is important to me. But more importantly, to the students in the city of St. Louis.

The matter of child nutrition has been a major career objective with me and I thank you for the audience afforded me here today. Special thanks is expressed to you, sir.

Mr. IRELAND. Thank you very much, Mr. Page.

Mr. Smith, you are next.

TESTIMONY OF STANLEY C. SMITH, DIRECTOR OF FOOD SERVICES, BALTIMORE COUNTY PUBLIC SCHOOLS, MD.

Mr. SMITH. Thank you, Mr. Chairman.

I thank you for inviting me to appear and testify before your committee.

I am going to ask that two minor changes be made in the submitted statement and then I would like to just skip through certain parts, if I may. At the very bottom of the page, page 1 where it says: "Section 14 authorizes the use of section 32 funds and 416 funds when sufficient commodities are made." The word "in" should be added to "sufficient."

On page 2, third paragraph down, where it says: "We use our warehousing capacity as a distribution center. Because more of our refrigerated * * *" just cross off those two sentences.

Now I would like to start back at the beginning here.

I spent 10 years with the U.S. Department of Agriculture in the child nutrition programs. Therefore, I am fairly familiar with how they operate, what they do, and some of the hangups.

I will say this. The people in USDA generally—as somebody else has mentioned—are dedicated in doing what they are doing. Although, perhaps they are dedicated in doing the wrong thing because it is a fault of the system—the commodity price support and surplus removal system.

One of the reasons why I left USDA was the fact that USDA administrators did not feel the need to use food service personnel for obtaining basic information prior to making relevant decisions. I think that is unfortunate.

Now I would like to put commodities in perspective relative to our system. Our revenue this year will approximate $12 million of which $5 million will be used for purchased food which is about 42 percent of revenue, and $1.3 million which is 11 percent of revenue, which will be commodity value earned. The value of purchased food used therefore is four times the value of commodities used.

Of the $1.3 million used on commodities approximately $1.13 million will be used directly, that is unprocessed. Whereas about $0.17 million, which is about 13 percent, will be used in processing, which is a small part of it. In Maryland public schools last year of the approximately $14.5 million allocated, $12.6 million or 86.5 percent was allocated directly, and $1.9 million, or 13.5 percent, was used in processing.

Following application, 24 companies were accepted by the State agency for processing.

You will note in the attachments the companies listed and what was involved, the kind of commodities used, and which counties received what products. Therefore, it is broken out very well as to what commodities were used and where it went, in dollar value.

Our system in Baltimore County is rather unique in that we have warehousing which can be used as a distribution center. We have a large capacity for frozen goods and particularly dry goods. We are therefore able to distribute our own products. We do not rely on vendor deliveries to schools, except for a few items like bakery goods, ice cream, and produce.

Now, going down to the bottom paragraph there, it is indicated that we can buy frozen beef, ground bulk beef, for about $1.13 versus $1.35 charged by the Government. The Government is of course gung-ho on reducing fat. In Government beef there is 21-percent fat, which seems extremely low. It was somebody's idea of trying to keep cholesterol down; however, years ago it was established by the military and commercial companies that about 25- to 26-percent fat made the most flavorful hamburger patties. As you know when hamburger products are cooked a good part of the fat is cooked out of it. Therefore, USDA is paying a premium price for a minimal difference. It should be questioned whether it is really necessary. I am obtaining commercially ground beef with 26-percent fat. When the purchasing formula is readjusted based on 21-percent fat, we would have paid $1.13 versus $1.35 charged by the Government. Our system uses formula bidding based on the "yellow sheet" in Chicago. Our weekly usage is about 2,400 pounds of bulk ground beef—all of which has been supplied by commodities—3,600 pounds of beef patties and 6,100 pounds of flake steaks. For flake steaks, incidentally, we are paying $1.40 a pound whereas in the retail market it is selling for $2.90 to $3.40 per pound.

I have put on the other page here comments concerning commodities and I will comment on that later on, it is an attachment to the first sheet here. I wish to mention that USDA recently introduced a raw turkey roast which we have just cooked off, it was excellent. It was as acceptable as fresh turkey and much easier to handle.

I have to agree with everyone, the canned, boned poultry, as pointed out by Dave Page here, is actually canned spent hen. It is a terrible product. I cannot imagine an Agriculture official taking a can home even if it were given to him—and serving it to his family. I do not know how or why Agriculture officials are boxed into buying this product.

There are certain commodities which are supplied in excessive quantities: such as applesauce and pork, for example.

I have indicated here that the letter of credit is better than the current commodity system, but I would prefer cash. I think it has a lot more flexibility, and I believe in the long run we could buy much cheaper than if we used commodities shipped directly to us at the assigned value. I wish to point out that probably, our board would not award any additional contracts if we obtained cash or letter of credit. Our number of vendors would become fewer because we would be going into more cooperative buying. However we would have a wider selection of vendors who could bid these contracts.

Now other than this, I would like to indicate a number of things. The effective use of commodities varies widely depending on the school district, and on the State. I feel that commodities in Maryland are handled well, compared to how other States handle them. Maryland has had processing contracts for some time. They do a conscientious job, although they can still make many improvements.

Besides cost we need to have a choice of quality. As indicated on this sheet, some commodities were good. With some products, though, good is not enough. Restaurants would not win acceptance using some of these products that I have rated as good. As a professional, I would not normally use them.

Our program has only 11- or 12-percent free and reduced-price meals. We sell our programs. It is a selling job, like a marketing situation that exists in the restaurant field. In some instances, unless we have an item above good—in fact very good—the students will not buy them. Because we are trying to sell children on the need for selecting a varied diet. Commodities shipped directly to us does not offer sufficient flexibility to do a good job.

One of the reasons why school food service supervisors are afraid to change the commodity program is that Agriculture has a lot of latitude. Agriculture is in a position to assist, by designating commodities as supplies. It appears that USDA has the latitude to offer commodities over and above the dollar value that we would normally get. However, I feel that there is something wrong with the whole surplus process because we do not really remove from the market these additional surpluses. We do not use any more flour, for example, than we would use ordinarily. In other words, we would still have to use rolls. We would still have to use spaghetti. We would still have to use all the products that flour goes into. We can serve only so much flour within the A meal pattern. If purchased as surplus, ground beef is another commodity in question. We use all the ground beef in our menus that we possibly can even if we did not receive commodities. We therefore just have to substitute commodity ground beef in place of buying it off the commercial market.

The result is that commodities are being removed from certain areas which have not competed well and who are depending on the Government to pull them out of a hole. The giving of these commodity products are in effect taken away from those businesses who are competing well. That is unfortunate.

Thank you.

Mr. **Ireland**. Without objection, we will insert your written statement into the record at this point.

[Mr. Smith's prepared statement, with attachments and letter to [Hon. Andy Ireland, follow:]

PREPARED STATEMENT OF STANLEY C. SMITH, FOOD SERVICES DIRECTOR, BALTIMORE COUNTY PUBLIC SCHOOLS, MD.

Mr. Chairman and Members of the Subcommittee, Thank you for inviting me to appear and testify before your committee concerning the purchase and distribution of commodities by the United States Department of Agriculture to the local participants in the National School Lunch Program and the role of small business in that procurement process.

My experience covers 16 years in commercial food service, 10 years in the U.S.D.A. Food and Nutrition Service and 3 years as Food Service Director, Baltimore County Public Schools, Maryland.

Baltimore County has 156 schools of which 46 are secondary and 110 are elementary. We have been using 46 secondary schools plus 4 elementary schools as food preparation centers (base kitchens) to supply our transport bulk food service to 106 elementary schools.

The enrollment is now about 96,000 and the average daily attendance about 88,000. We serve about 36,500 lunches daily of which 72 percent are paid, 19 percent free and 9 percent reduced. (Approximately 12 percent of our enrollment is eligible for free or reduced priced meals).

As you may know commodities may be purchased under 4 authorities, Section 6, Section 32, Section 416 and Section 14. Section 6 (National School Lunch Act) authorizes the Department to buy items for school food services that do not necessarily need to be surplus or price supportive commodities. Section 32 (Act of 1935) permits the removal of surplus commodities. Section 416 (Agriculture Act 1949) authorized purchase of commodities in need of price support. Section 14 authorizes the use of Section 32 funds and 416 funds when insufficient commodities are made available to meet the commodity value earned per lunch (currently 13.50¢ per lunch).

To put commodities in perspective, our revenue this year will approximate $12 million of which $5 million will be used for purchased food (42 percent of revenue) and $1.3 million (11 percent of revenue) will be commodity value earned. The value of purchased food used therefore is four times the value of commodities used.

Of the $1.3 million used on commodities approximately $1.13 million (87 percent) will be used directly and $.17 million (13 percent) will be used in processing. In Maryland Public Schools last year of the approximately $14.5 million allocated, $12.6 million (86.5 percent) was allocated directly and $1.9 million (13.5 percent) was used in processing. Following application, 24 companies were accepted by the state agency to perform the processing.

The extra cost of storing commodities in public warehousing in Baltimore County is limited to refrigerated/frozen commodities (storage cost about .003% of the value). We have our own warehouse which has sufficient storage for handling dry goods but does not have sufficient storage for handling those refrigerated/frozen commodities that cover more than two month's supply. We use our warehousing capacity as a distribution center. Because more of our refrigerated/frozen purchased foods are drop-shipped, we do not have the capacity to handle quantities exceeding two month's supply. Our warehousing capacity is probably the largest of any school food service system in Maryland. Most Maryland school food service systems have only limited central storage, if any at all.

The value placed on commodity dry goods averages about what we would normally pay because we have not been buying in large quantities. However, for some of the frozen items such as bulk ground beef (with 21 percent fat) we would pay only $1.13 versus $1.35 charged by the government. Our system, however, for purchasing ground beef is for over a period of a fiscal year and is based by formula on the "Yellow Sheet" (Provisioner). Our current weekly usage is about 2,400 pounds bulk ground beef, 3,600 pounds beef patties and 6,100 pounds flake steaks (pressed ground beef). Because we bid bulk ground beef for the year, we need to insert a clause in our bid that indicates we may receive commodities bulk beef in place of the estimated amount. (Bulk ground beef and beef patties are usually bid together as a unit).

Comments concerning commodities have been indicated on the attached list of commodities values for the period effective October 1, 1980 through March 31, 1981. As you will note, overall the quality of commodities is good. The recently introduced turkey roast is excellent while the canned boned poultry is extremely poor and always has been. (Why does U.S.D.A. want the image of a canned spent hen?) The quantities of certain items, such as applesauce and pork, which we have to take to assure obtaining commodity due us is still excessive. Nevertheless, commodities, particularly the notification of deliveries has improved considerably this fiscal year.

Though still desirable, the advantages of a letter of credit system has decreased due to positive steps taken by U.S.D.A. and the state agencies. However, if cash could be assured in place of commodities, it is most preferrable. It would give us better control, improved quality, wider selection of vendors, and less paper work. However, because school food services are moving toward more cooperative buying among school districts, the number of vendors awarded contracts will likely decrease.

Attached, for your review is a compilation of information issued by the Maryland State Department of Education. Additional information may be obtained by contacting Mr. Ken Shifflett, Chief, Food Distribution Section, Maryland State Department of Education, 200 W. Baltimore St., Baltimore, Maryland 21201.

Thank you.

DELIVERED COSTS OF DONATED FOODS

Effective October 1, 1980 thru March 31, 1981

Listed below are values of donated foods that will be used from October 1, 1980 thru March 31, 1981. At that time a revised list will be issued. Prices quoted include transportation costs to our warehouses or team tracks. (plus 60¢ storage)

COMMODITY	COMMENTS	TYPE PACK	NET WEIGHT	UNIT VALUE
SECTION 6				
Chicken, Frozen Cooked Breaded	(portioning poor breading fair)	30#	30#	$27.64
Chicken, Frozen Cutup	(portion'g fair/poor)	30#	30#	20.23
Chicken, Frozen Patties	(poor quality)	36#	36#	48.40
Chicken (Thighs & Drumsticks)	(varied sizing)	30#	30#	19.95
* Turkey Roll, Frozen	(fair quality)	40#	40#	41.47
SECTION 32				
Apples, Fresh	(very good quality)	40#	40#	7.80
Apple Juice, Canned	(hard to use)	12/#3	37.7#	10.22
Applesauce, Canned	(excessive quantity)	6/#10	40.5#	10.02
Apricots, Canned	(wasted by students)	6/#10	40.5#	17.85
Beans, Dry Canned	(don't use currently)	6/#10	40.5#	7.60
Beans, Green Canned	(acceptable quality)	6/#10	38#	8.61
Beans, Green Frozen	(fair quality)	30#	30#	9.03
Beans, Vegetarian Canned	(excessive quantity)	6/#10	41.25#	7.98
Beef, Frozen Ground	(very good)	55#	55#	76.83
Catsup	(good)	6/#10	43.13#	10.60
Corn, Canned	(good quality-excessive quantity)	6/#10	40#	9.96
Egg Mix	(can't use)	4/10#	40#	51.40
Peaches, Canned	(good quality-need more)	6/#10	40#	14.08
Pears, Canned	(good quality-need more)	6/#10	40#	14.50
Peas, Canned	(good/acceptable)	6/#10	40#	9.35
Peas, Frozen	(preferred/good)	30#	30#	8.77
Pineapple, Canned	(good)	6/#10	41.4#	14.50
Pork, Canned	(good-too much)	24/29 oz.	43.5#	54.10
Pork, Frozen Ground	(good-too much)	55#	55#	65.67
Potatoes, Dehydrated Instant	(good)	6/5#	30#	9.77
Potatoes, French Fries	(not acceptable for fryers)	6/5#	30#	7.08
Potatoes, Rounds Frozen	(good)	6/5#	30#	8.81
Potatoes, Sweet Whole	(good-children won't eat)	6/#10	38.25#	12.00
Poultry, Boned Canned	(terrible!)	24/29 oz.	43.5#	50.03
Raisins (Box)	(preferred)	144 - 1 1/3 oz.	12#	11.20
Raisins (Bag)		200 - 1 1/3 oz.	16.6#	15.50
Raisins (Bulk)	(not worth the trouble-excessive amount sent)	30#	30#	17.70
*Turkey Roast	(new-excellent)	Bulk	Bulk	1.1895/#

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COMMODITY	COMMENTS	TYPE PACK	NET WEIGHT	UNIT VALUE
Tomato Juice, Canned		12/#3	36.5#	$ 6.68
Tomatoes, Canned	(good-plentiful)	6/#10	38.25#	9.38
Tomato Paste, Canned	(good-plentiful)	6/#10	41.6#	14.05
Turkey	(good-hard to handle-high labor)	BULK	BULK	.7456/lb.
Vegetables, Mixed Frozen	(very good)	30#	30#	7.15
SECTION 416				
Butter, Print	(don't use)	36/1#	36#	53.07
Butter, Print		32/1#	32#	47.17
Butter, Patties	(preferred form-would rather have corn margarine!)	6/5#	30#	45.60
Cheese, Cheddar	(excellent-hard to use in bulk though)	BULK	BULK	1.38/lb.
Cheese, Process	(good-large quantities used)	6/5#	30#	41.82
Cheese, Mozzarella	(improved-currently not available)	BULK	BULK	1.278/lb.
Corn Meal		10/5#	50#	7.00
Flour, All Purpose	(good-used mainly in processing)	50#	50#	5.88
Flour, Baker's Hard Wheat	(not used)	BULK	BULK	.12/lb.
Flour, Baker's Soft Wheat	(not used)	BULK	BULK	.1025/lb.
Flour, Durum	(not used)	BULK	BULK	.2075/lb.
Flour, Whole Wheat	(processing only)	50#	50#	6.25
Macaroni	(OK-don't use)	20#	20#	4.85
Milk, Nonfat Dry	(used in processing)	50#	50#	45.40
Peanut Butter	(good-hard for us to use in large quantities)	6/#10	41.25#	25.35
Peanut Granules	(not worth investment)	6/#10	21#	14.72
Peanuts, Roasted	(hard to use)	6/#10	24#	16.12
Rice	(hard to use)	50#	50#	12.63
Rolled Oats	(don't use)	12/3#	36#	6.12
Rolled Wheat	(don't use)	5/10#	50#	8.63
Spaghetti	(improved)	20#	20#	5.25
Vegetable Oil	(good)	6/1 Gal.	43.2#	19.52
Vegetable Oil	(don't use)	BULK	BULK	.2675/lb.
Vegetable Shortening	(good)	12/3#	35#	14.22

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DAVID W. HORNBECK
STATE SUPERINTENDENT

MARYLAND STATE DEPARTMENT OF EDUCATION
200 WEST BALTIMORE STREET
BALTIMORE, MARYLAND 21201
(301) 659-2601

TOTAL VALUE OF USDA DONATED FOODS
RECEIVED DURING FISCAL YEAR 1980

July 1, 1979 thru June 30, 1980

RECIPIENT AGENCY	FOOD ALLOCATED	VALUE OF FOOD USED IN PROCESSING	VALUE REJECTED	TOTAL VALUE
Allegany County	$ 425,839.98	$ 15,888.52	$ -	$ 441,728.50
Anne Arundel County	1,052,438.89	294,485.22	-	1,346,924.11
Baltimore County	1,013,779.05	151,712.16	-	1,165,491.21
Baltimore City	2,403,072.44	271,356.78	-	2,674,429.22
Calvert County	170,551.65	18,301.35	1,325.00	190,178.00
Caroline County	113,258.05	6,506.05	-	119,764.10
Carroll County	265,647.42	71,585.42	-	337,232.84
Cecil County	218,333.30	22,701.93	-	241,035.23
Charles County	332,199.42	62,502.00	-	394,701.42
Dorchester County	87,821.12	7,463.42	2,113.92	97,398.46
Frederick County	411,880.73	38,097.34	-	449,978.07
Garrett County	185,930.64	6,648.80	-	192,579.44
Harford County	601,389.33	74,435.45	-	675,824.78
Howard County	258,608.12	84,252.58	-	342,860.70
Kent County	72,379.43	6,228.89	-	78,608.32
Montgomery County	1,237,561.31	379,810.21	-	1,617,371.52
Prince George's County	2,376,816.00	328,427.94	-	2,705,243.94
Queen Anne's County	103,375.17	7,669.01	-	111,044.18
St. Mary's County	277,621.80	20,495.15	-	298,116.95
Somerset County	86,083.10	5,654.93	-	91,738.03
Talbot County	68,929.50	8,091.57	1,875.33	78,896.40
Washington County	567,491.51	20,899.14	-	588,390.65
Wicomico County	163,694.42	35,045.54	3,909.00	202,648.96
Worcester County	96,425.11	12,925.93	-	109,351.04
TOTALS	$12,591,127.49	$1,951,185.33	$ 9,223.25	$14,551,536.07
Nonpublic Schools	681,047.64	10,690.30	7,958.04	699,695.98
TOTAL SCHOOLS	$13,272,175.13	$1,961,875.63	$17,181.29	$15,251,232.05
Institutions	1,641,545.02	-	-	1,641,545.02
Summer Camps	59.286.95	-	-	59,286.95
Summer Feeding	26,052.05	-	-	26,052.05
GRAND TOTALS	$14,999,059.	$1,961,875.63	$17,181.29	$16,978,116.07

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	ABBOTTS Dry Milk .80		B & H PIZZA Mozzarella $1.22 Flour .11		BALTIMORE PIZZA CRUST Flour .1185		BAUMGARDNER'S Flour .102	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY								
ANNE ARUNDEL								
BALTIMORE					950,000	$11,257.50		
BALTIMORE CITY			COMBINED	$199,299.71				
CALVERT			COMBINED	14,191.48				
CAROLINE			COMBINED	983.51				
CARROLL			COMBINED	49,440.29			67,796	$6,915.19
CECIL	2,723.19	$ 2,178.55	COMBINED	10,419.27				
CHARLES			COMBINED	42,293.49				
DORCHESTER			COMBINED	2,039.12				
FREDERICK			COMBINED	22,765.40				
GARRETT								
HARFORD	6,365.23	5,092.18	COMBINED	41,423.38				
HOWARD			COMBINED	55,901.44				
KENT	1,895.82	1,516.66	COMBINED	1,871.07				
MONTGOMERY			COMBINED	276,490.10				
PRINCE GEORGE'S	16,865.29	13,492.23	COMBINED	172,411.58				
QUEEN ANNE'S	1,289.62	1,031.70	COMBINED	3,899.58				
ST. MARY'S			COMBINED	9,516.23				
SOMERSET			COMBINED	2,767.64				
TALBOT			COMBINED	3,918.94				
WASHINGTON								
WICOMICO			COMBINED	12,211.50				
WORCESTER			COMBINED	6,521.01				
NONPUBLIC SCHOOLS			COMBINED	7,669.11	1,504	178.22		
	29,139.15	$23,311.32	COMBINED	$93 [illegible]33.85	96,504	$11,435.72	67,796	$[illegible]15.19

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	BETTER BAKED Cheese $1.33 Shortening .385 Flour .1177		DOXSEE Oil .34		EMBASSY Dry Milk .7925		H & S BAKERY Flour .105	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY			7,404	$ 2,517.36				
ANNE ARUNDEL	COMBINED	$248,624.79	46,893	15,943.62				
BALTIMORE			55,283	18,796.22	41,996	$33,281.83	477,014	$50,086.47
BALTIMORE CITY			33,047	11,235.98	9.125	7,231.56		
CALVERT					951	753.67		
CAROLINE			567	192.78	3,096	2,453.58		
CARROLL			3,930	1,336.20				
CECIL			8,638	2,936.92				
CHARLES			14,988	5,095.92				
DORCHESTER	COMBINED	198.55	913	310.42	1,612	1,277.51		
FREDERICK			11,713	3,982.42				
GARRETT			10,846	3,687.64				
HARFORD			19,872	6,756.48				
HOWARD			19,755	6,716.70				
KENT			3,307	1,124.38				
MONTGOMERY			62,698	21,317.32	23,528	18,645.94		
PRINCE GEORGE'S			79,294	26,959.96				
QUEEN ANNE'S			4,221	1,435.14				
ST. MARY'S			7,625	2,592.50				
SOMERSET			123	41.82	873	691.85		
TALBOT			1,234	419.56	2,192	1,737.16		
WASHINGTON			14,191	4,824.94				
WICOMICO	COMBINED	9,147.97	5,195	1,766.30				
WORCESTER			1,225	416.50				
NONPUBLIC SCHOOLS			657	223.38				
	COMBINED	$257,971.31	413,619	$140 [illegible]30.46	83,373	$66,073.10	477,014	$5 [illegible]86.47

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	HOLLY RIDGE Flour .10 Shortening .3225		HUDSON Oil .3188		I.T.T. Flour .1058		JOHNSTOWN DAIRY Dry Milk .7275	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY								
ANNE ARUNDEL								
BALTIMORE								
BALTIMORE CITY			22,268	$ 7,099.04				
CALVERT			4,688	1,494.53				
CAROLINE								
CARROLL							680	$ 494.70
CECIL			3,390	1,080.73				
CHARLES								
DORCHESTER								
FREDERICK								
GARRETT			2,376	757.47				
HARFORD								
HOWARD	COMBINED	$2,994.68						
KENT	COMBINED	1,404.86						
MONTGOMERY								
PRINCE GEORGE'S								
QUEEN ANNE'S					319,710	$33,825.32	10,300	7,493.25
ST. MARY'S					265,043	28,041.55		
SOMERSET								
TALBOT								
WASHINGTON								
WICOMICO								
WORCESTER								
NONPUBLIC SCHOOLS			297	94.68				
	COMBINED	$4,399.54	33,019	$10[illegible]26.45	584,753	$61,866.87	10,980	$7[illegible]7.95

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	KEEBLER Peanut Butter .436 Flour .101		LANCE Flour .0996		LINDEN'S Peanut Granules .62 Peanut Butter .80 Shortening .44 Flour .12		MANBECK Flour .10	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY			3,992	$ 397.60				
ANNE ARUNDEL								
BALTIMORE			17,882	1,781.05	COMBINED	$19,193.56		
BALTIMORE CITY								
CALVERT			15	1.5[illegible]				
CAROLINE			3,927	391.13				
CARROLL	COMBINED	$ 28.17	7,368	733.85				
CECIL			22	2.19	COMBINED	2,316.44		
CHARLES			3,740	372.50				
DORCHESTER			4,074	405.77				
FREDERICK	COMBINED	45.78	2,431	242.13			17,774	$1,777.40
GARRETT			1,285	127.99				
HARFORD			3,869	385.35	COMBINED	145.60		
HOWARD	COMBINED	1,044.80	5,434	541.23	COMBINED	1,995.64		
KENT			1,171	116.63				
MONTGOMERY	COMBINED	1,211.35						
PRINCE GEORGE'S	COMBINED	877.11			COMBINED	19,889.12		
QUEEN ANNE'S								
ST. MARY'S	COMBINED	99.71						
SOMERSET			1,376	137.05				
TALBOT			269	26.79				
WASHINGTON	COMBINED	637.39					17,296	1,729.60
WICOMICO			4,657	463.84				
WORCESTER	COMBINED	60.78	9,240	920.30				
NONPUBLIC SCHOOLS	COMBINED	25.67						
	COMBINED	$4,030.76	70,752	$[illegible]46.90	COMBINED	$43,540.36	35,070	$[illegible]07.00

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	MEADOW GOLD Dry Milk .8075		NABISCO Flour .1075		PH. ORTH CO. Shortening .467 Flour .1127		PHILADELPHIA MACARONI Flour .15	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY								
ANNE ARUNDEL								
BALTIMORE								
BALTIMORE CITY								
CALVERT								
CAROLINE								
CARROLL	12,415	$10,025.00						
CECIL								
CHARLES	8,019	6,475.00					7,179	$1,076.85
DORCHESTER								
FREDERICK			2,726	$293.05	COMBINED	$ 231.93		
GARRETT								
HARFORD	4,527	3,656.00						
HOWARD	10,275	8,297.00						
KENT								
MONTGOMERY					COMBINED	2,941.78	8,323	1,248.45
PRINCE GEORGE'S	16,005	12,924.00						
QUEEN ANNE'S								
ST. MARY'S	3,327	2,687.00						
SOMERSET								
TALBOT								
WASHINGTON	5,418	4,375.00						
WICOMICO	7,199	5,813.00						
WORCESTER	3,079	2,486.00	2,269	243.92				
NONPUBLIC SCHOOLS								
	70,264	$56,738.00	4,995	36.97	COMBINED	$3,173.71	53,564	$ [illegible]034.60

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	SAN GIORGIO Flour .1036		SCHMIDT'S Flour .0915		STROEHMANN Flour .1194		TASTY KAKE Butter $1.30 Dry Milk .8025 Peanut Butter .4014 Flour .115	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY					104,533	$12,481.24		
ANNE ARUNDEL			318,700	$ 29,161.05				
BALTIMORE							COMBINED	$9,004.26
BALTIMORE CITY			536,526	49,092.13				
CALVERT			31,253	2,859.65				
CAROLINE			27,159	2,485.05				
CARROLL	5,415	$ 560.99						
CECIL			46,806	4,282.25				
CHARLES			78,560	7,188.24				
DORCHESTER	597	61.85	34,647	3,170.20				
FREDERICK	2,734	283.24	84,356	7,718.57				
GARRETT			28,548	2,612.14				
HARFORD			131,126	11,998.03				
HOWARD			79,504	7,274.62				
KENT			17,488	1,600.15				
MONTGOMERY	2,886	298.99						
PRINCE GEORGE'S			474,050	43,375.58				
QUEEN ANNE'S			14,236	1,302.59				
ST. MARY'S			61,199	5,599.71				
SOMERSET			22,039	2,016.57				
TALBOT			21,739	1,989.12				
WASHINGTON			87,118	7,971.30				
WICOMICO	5,939	615.28	54,947	5,027.65				
WORCESTER			24,889	2,277.34				
NONPUBLIC SCHOOLS					17,113	2,043.29		
	17,571	$1,820.35	2,174,890	$19[illegible]02.44	121,646	$14,524.53	COMBINED	$ [illegible]04.26

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	TRINACRIA Flour .11		TROTTER'S Flour .1116		VIVIANO Flour .115		WILKINS ROGERS Flour .102 Shortening .405 Dry Milk .80	
	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE	POUNDS	VALUE
ALLEGANY								
ANNE ARUNDEL	6,365	$ 700.15			4,281	$ 492.32		
BALTIMORE					484	55.66		
BALTIMORE CITY	27,300	3,003.00			10,526	1,210.49		
CALVERT								
CAROLINE								
CARROLL								
CECIL							COMBINED	$ 1,465.00
CHARLES			5,070	$ 565.81				
DORCHESTER								
FREDERICK								
GARRETT								
HARFORD					1,922	221.03		
HOWARD					17,250	1,983.25		
KENT			1,725	192.51	7,685	883.78		
MONTGOMERY								
PRINCE GEORGE'S			20,190	2,253.20			COMBINED	14,084.51
QUEEN ANNE'S			42,630	4,757.51				
ST. MARY'S								
SOMERSET								
TALBOT								
WASHINGTON								
WICOMICO					11,834	1,360.91		
WORCESTER								
NONPUBLIC SCHOOLS								
					589	67.74		
.	33,665	$3,703.15	69,615	$7 [illegible]59.03	54,571	$6,275.68	COMBINED	$1[illegible]49.51

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DONATED FOODS RECEIVED FOR SCHOOLS IN MARYLAND FY 1980

SECTION 6 AND 32:

COMMODITY	CASES/POUNDS	DOLLAR VALUE
Chicken, Frozen Cooked Breaded	22,800	$ 559,359
Chicken, Frozen Cutup	42,000	646,780
Turkey Roll	13,125	484,385
Apples, Fresh	10,300	84,240
Apple Juice, Canned	11,950	122,642
Applesauce, Canned	21,810	218,536
Beans, Dry Canned	1,600	12,160
Beans, Green Canned	13,200	130,020
Beans, Vegetarian Canned	12,007	95,816
Beef, Frozen Ground	21,000	1,540,350
Catsup	12,057	112,733
Corn, Canned	23,300	216,507
Peaches, Canned	16,384	205,128
Pears, Canned	15,400	220,220
Peas, Canned	13,200	131,076
Pineapple, Canned	11,675	167,186
Pork, Canned	3,400	223,550
Pork, Frozen Ground	4,900	313,600
Potatoes, Dehydrated	4,000	37,640
Potatoes, French Fries	71,800	545,345
Potatoes, Frozen Rounds	45,900	394,740
Potatoes, Sweet Whole	3,000	36,000
Poultry, Boned Canned	5,300	262,349
Raisins	2,800	31,360
Raisins	7,620	134,874
Tomato Juice, Canned	11,931	80,153
Tomatoes, Canned	19,917	171,632
Tomato Paste, Canned	10,200	139,231
Turkey	630,000 lbs.	380,078
Vegetables, Mixed Frozen	12,300	87,945
	TOTAL VALUE RECEIVED	$ 7,785,635
	TOTAL ENTITLEMENT	7,750,200
	AMOUNT RECEIVED ABOVE ENTITLEMENT	$ 35,435

SECTION 416

COMMODITY	CASES/POUNDS	DOLLAR VALUE
Peanut Butter	5,235	$ 120,929
Peanut Granules	756	10,093
Roasted Peanuts	5,326	83,725
Butter 36/1#	29,344	1,451,354
Butter 32/1#	7,678	337,602
Cheese, Mozzarella	1,566,845 lbs.	2,334,599
Cheese, Process	44,846	1,753,030
Cheese, Cheddar	940	54,482
Corn Meal	2,547	17,829
Flour, A/P	26,020	156,120
Flour, Whole Wheat	2,800	16,464
Flour, Durum	500	5,375
Flour, Baker's H/W	4,160,000 lbs.	499,200
Flour, Baker's S/W	188,830 lbs.	24,675
Dry Milk	9,098	387,120
Rice	2,885	24,234
Rolled Oats	2,130	12,269
Rolled Wheat	1,000	6,300
Macaroni	10,115	53,610
Spaghetti	12,825	79,515
Vegetable Oil - Case	6,778	148,777
Vegetable Oil - Bulk	453,340 lbs.	158,669
Shortening 12/3#	7,248	124,593
Shortening 50#	1,200	24,600
	TOTAL VALUE RECEIVED	$ 7,885,164
	TOTAL ENTITLEMENT	3,659,015
	AMOUNT RECEIVED ABOVE ENTITLEMENT	$ 4,226,149
	GRANT TOTAL ENTITLEMENT FOR SCHOOLS	$11,409,215
	TOTAL VALUE OF FOODS RECEIVED FOR SCHOOLS	15,670,799
	TOTAL VALUE RECEIVED OVER ENTITLEMENT	$ 4,261,584

	NFFA SURVEY				USDA SURVEY			
STATE	FY79 Total State &Local Warehouse, Storage & Handling Charges Paid	Total Cases ordered	Average cost per case	Claimed Savings with a C L O C	FY79 Total State & Local Warehouse, Storage & Handling Charges	Total Cases Ordered	Average cost per case	Difference in claimed savings
NEW ENGLAND								
Connecticut	$ 1,839,827.	450,938	$ 4.08	$ 1,204,004	$ 902,428.	582,653	$ 1.55	$- 937,399.
Maine	1,530,085.	212,342	7.21	1,231,503.				
Massachusetts	4,105,001.	935,080	4.39	2,618,224.				
New Hampshire	289,540.	103,778	2.79	126,609.				
Rhode Island	357,156.	104,738	3.41	200,049.	117,797.	96,290	1.22	- 200,049.
Vermont	316,128.	88,800	3.56	188,256.				
MID-ATLANTIC								
Delaware	245,923.	90,413	2.72	89,508.				
District of Columbia	174,961.	65,775	2.66	68,400.				
Maryland	2,073,225.	628,250	3.30	1,181,110.	1,252,125.	662,500	1.89	- 821,100.
New Jersey	2,838,116.	857,437	3.31	1,611,981.	1,610,044.	851,192	1.89	- 1,228,072.
New York	8,810,813.	2,553,859.	3.45	5,286,488.	5,418,111.	3,244,378	1.67	- 3,392,702.
Pennsylvania	5,839,426.	1,791,235	3.26	3,242,135.	3,224,223.	1,791,235	1.80	- 2,615,203.
Puerto Rico	3,018,271.	766,046	3.94	1,654,659.				
Virginia	3,533,692	1,015,429	3.48	2,000,395.	1,821,828.	1,017,781.	1.79	- 1,711,864.
Virgin Islands	1,680,078.	40,895	41.08	92,831.				
West Virginia	1,809,171.	296,100	6.11	1,356,138.	678,059.	349,924	1.94	- 1,131,112.
SOUTHEAST								
Alabama	3,612,765.	1,111,620	3.25	2,245,472.				
Florida	5,112,655.	1,527,980	3.35	2,903,483.	3,613,907.	1,745,849	2.07	- 1,498,748.
Georgia	5,183,229.	1,604,715	3.23	3,065,005.				
Kentucky	3,403,153.	1,043,912	3.26	2,119,141.	2,119,141.	1,043,912	2.03	- 1,284,012.
Mississippi	1,856,570.	564,307	3.29	1,015,752.				
North Carolina	6,764,854.	1,448,577	4.67	4,852,732.				
South Carolina	3,130,110.	815,133	3.84	1,956,319.	2,334,348.	880,886	2.65	- 795,762.
Tennessee	2,937,333.	887,412	3.31	1,703,831.				
MIDWEST								
Illinois	5,611,374.	1,255,341	4.47	3,565,168.				
Indiana	2,718,014.	742,627	3.66	1,403,565.				
Michigan	4,917,645.	1,080,802	4.55	3,321,597.	1,686,378.	1,121,301	1.50	- 3,231,271.
Minnesota	2,091,589.	622,497	3.36	1,014,670.				
Ohio	5,601,795.	1,605,099	3.49	3,434,911.				
Wisconsin	2,445,752.	687,009	3.56	1,449,588.				

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STATE	NFPA SURVEY FY79 Total State & Local Warehouse, Storage & Handling Charges Paid	Total Cases Ordered	Average cost per case	Claimed Savings with a C L O C	USDA SURVEY FY79 Total State & Local Warehouse, Storage & Handling Charges	Total Cases Ordered	Average cost per case	Difference in claimed savings
SOUTHWEST								
Arkansas	1,809,679.	468,829	3.86	1,134,566.	543,000.	528,262	1.03	1,134,566.
Louisiana	4,674,330.	1,230,087	3.80	3,075,217.				
New Mexico	828,888.	202,168	4.10	507,441.				
Oklahoma	2,019,851.	528,757	3.82	1,290,167.				
Texas	10,855,570.	2,693,690	4.03	7,057,467.				
MOUNTAIN PLAINS								
Colorado	1,233,231.	378,292	3.26	627,964.				
Iowa	1,735,477.	505,970	3.43	936,044.				
Kansas	----CASH----							
Missouri	2,430,615.	702,490	3.46	1,264,482.				
Montana	589,681.	127,361	4.63	385,903.				
Nebraska	802,565.	259,730	3.09	410,373.	489,750.	267,645	1.83	- 312,815.
North Dakota	538,716.	110,167	4.89	370,161.				
South Dakota	712,912.	154,310	4.62	512,309.	241,236.	74,588	3.23	- 471,676.
Utah	1,398,872.	348,846	4.01	913,976.				
Wyoming	295,792.	72,321	4.09	196,713.				
WESTERN								
Alaska	253,613.	63,088	4.02	171,599.				
American Samoa	37,746.	9,532	3.96	22,304.				
Arizona	1,239,789.	334,175	3.71	695,084.				
California	12,557,385.	2,391,883	5.25	8,969,561.	4,686,626.	2,849,452	1.65	-7,870,759.
Guam	57,705.	15,266	3.78	30,739.				
Hawaii	773,095.	194,245	3.98	489,497				
Idaho	316,709.	98,357	3.22	179,009.				
Nevada	396,560.	107,761	3.68	237,074.				
Oregon	967,090.	267,152	3.62	491,559.	504,481.	389,393	1.30	- 462,209.
Washington	1,334,309.	391,293	3.41	704,327.				
*Totals	$60,514,624.	15,707,717	$3.85	$37,901,208.	$31,243,482.	17,497,241	$1.79	$-29,099,715

* Only those states listed under "USDA Survey"

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BALTIMORE COUNTY PUBLIC SCHOOLS,
DEPARTMENT OF FOOD SERVICE,
Towson, Md., May 1, 1981.

Hon. ANDY IRELAND,
Chairman, Subcommittee on Export Opportunities and Special Small Business Problems, House of Representatives, Washington, D.C.

DEAR MR. IRELAND: I thank you for the opportunity of appearing and testifying before your subcommittee on Tuesday, April 28, 1981.

After you left to attend a House call I indicated to Stephen Lynch, Staff Director, some of the following points.

1. *School food service supervisory attitudes.*—While I was with the Department of Agriculture and assisting various school food services throughout the country, it was apparent that the skill with which the program is administered varied from supervisors who had minimal or no food service background to those who were highly skilled. Many states administer school food service programs as if they were operated by the State. (In some cases they actually are). In part this has been due to the lack of expertise at the local level but is also due to "enthusiastic" involvement at the State level.

Generally, the larger the system the more skilled the administration. Consequently, those school food service directors of larger systems who have the know-how and the larger volume will usually prefer letter of credit or cash in lieu of commodities. (If cash could be assured). The school systems who appear to be "scared" of Agriculture are often uninformed and view the edicts (often elaborated on by the State) as coming down to them from on high (Federal Government) or from USDA, as a matriarch on whom they depend and need to follow. In part, this is also due to the fact that Agriculture has supported the school lunch program for years and does have latitude in selecting commodities and in making "bonuses" available above the earned commodity value. In addition, the complications of the regulations and the directives leave many supervisors somewhat bewildered and in awe.

2. *Varying commodity program administration.*—The effect of the commodity program varies widely relative to state and local administration. Nevertheless, USDA and the state agencies working in concert can make vast improvements in the commodity program. As stated in my prepared statements, during the past year there have been significant improvements, particularly in notification and an assurance of commodity deliveries.

There is still a compelling need to control and upgrade the quality of commodities. Although I indicated in my submitted statement that commodities were good on the average, there is still a wide variance. It is interesting to note that Agriculture has not sought from food service supervisors an evaluation of each commodity product as to quality and quantity. In view of all the paper work to meet program requirements (which often does little to serve us) a twice a year evaluation of commodities would be most welcome. Of course, there also needs to be a system for getting quick action on commodities that are unacceptable (we also need specifications on each commodity for determining exactly what we should be receiving). Of course the implications are, Agriculture knows very well what they are sending us and doesn't want to open the door.

3. *Commodity—supplement versus supplant.*—Commodities at the school level generally do not supplement food items normally used as much as supplant food items normally used. Our menus currently call for about all the ground beef we can use without having a negative effect on participation. We cannot use any more flour than we are using now. The Type A meal (currently termed a nutritionally balanced meal) requires only so much bread or bread substitute. The Type A meal also requires a specific amount of fruit and vegetables that we need to purchase anyway. Even if an allocated commodity is not normally being used, upon receipt it will replace or decrease the use of other food items that are.

The numerous problems with the commodity program are, of course, only symptomatic and inherent to the real problem, the basic surplus and price support program itself. It is difficult to envision as to how these commodities can be handled in a way that is not detrimental to a healthy market situation and which is not an additional expense to taxpayers and business. (The business expense, naturally, is passed on to the consumer who supports the program doubly as a taxpayer and again as a consumer).

One unanswered question is—If the surplus and price support program is a "safety net", why do the same commodities appear year in and year out on the commodity list? Why isn't the "safety net" lowered to discourage overproduction?

It should also be noted that with decreased participation in the school lunch program, "bag lunches" will re-direct the purchase of foods through supermarkets. I am not sure as to how this would affect small business.

I recognize that you have specific and perhaps limited goals as to what you are trying to achieve at this time. Nevertheless, I hope that my testimony and this letter helps in your endeavor to determine a better way to serve small business and the school food service program.

Very truly yours,

STANLEY C. SMITH, *Director.*

Mr. LYNCH. Mr. Page, are you a past president of the American School Food Service Association?

Mr. PAGE. Yes, sir, I am.

Mr. LYNCH. Are you still a member of that association?

Mr. PAGE. I am a charter member of the American School Food Service Association. I have been a member since 1946, and I am a past president of the American School Food Service Association.

Mr. LYNCH. Are you also a member of that organization, Mr. Smith?

Mr. SMITH. Yes, sir.

Mr. LYNCH. You heard my question to the previous two witnesses. The American School Food Service Association will appear here on May 13. I believe, from what I have been told so far that they believe things should basically remain as they are. Would you differ with that opinion as a member of the association?

Mr. PAGE. Mr. Lynch, let me say to you what their position is going to be. I felt pretty well what their position was going to be before I presented this material here today. In fact, they presented a different side of the picture, when I presented material before the House Education and Labor Committee, that I spoke of earlier.

I am going to answer in just a minute.

Mr. LYNCH. All right.

Mr. PAGE. I had the privilege of introducing Mr. Ford at a legislative conference here in Washington, to the American Food School Service Association, last year, I believe it was and I also had the privilege of responding to Mr. Ford. Mr. Ford's words of admonition to our group on that occasion, were pretty much the same as they are today, and that is that they ought to get out of the dark ages and look at commodities a little bit more realistically than they have in the past. I share that viewpoint, as the reactor to Mr. Ford.

I was selected by the American Food Service Association, I think rather objectively because I was the past president and because I had been an experiment, and I think that they knew that my attitude would be all right on it. Most of the people in the audience, I would say, disagreed with me and disagreed with Mr. Ford, but that does not make it right. I am telling you what I think is the basis of an experiment that we had, and I am being very honest with you and saying to you that it was a good experiment. I think what you are saying is how the legislative people of the American Food School Association feel.

Mr. LYNCH. I see.

Mr. PAGE. I do not know that they have made a survey of the whole organization.

Mr. LYNCH. Mr. Smith, do you concur with the argument made earlier that there should not be a fear on the part of the people who are providing commodities now in the Department of Agriculture, that if the program is ended they will have nowhere to go? Would not products be bought anyway? It would merely be bought on the local level as opposed to the current system?

Mr. SMITH. Mr. Lynch, when I was with USDA, one of my functions was to travel around the country as a consultant on food service. I have an overview as to how operations vary throughout the country. In reviewing the commodity process one basic factor to keep in mind is the extreme differences in levels of skill, within the various food services throughout the country. Supervisory levels vary from one extreme where the local supervisor should not even be in food service all the way up to skillfully run operations. One of the reasons why I think major cities, who are members of American School Food Service organizations, are basically for the commodity letter of credit or cash is because most are experienced, and are buying in large quantities. We also know more about food, generally, and recognize the potential advantages of the cash or letter of credit system.

There are a lot of supervisors in the United States who are dependent upon agriculture, like a mother. They are also dependent upon their State. Some State agencies have a lot of influence over school food service operations. In some ways, perhaps, State agencies need to because there are not enough trained supervisors. Nevertheless, if school food service purchased cooperatively, they could buy as cheap, if not cheaper, better quality commodity products than what the USDA is offering.

Does that answer your question?

Mr. LYNCH. Yes, it does.

Mr. Page, as far as you know, the other major school districts which took part in the same program that you did, have also accepted the cash program for the next—what is it—3 years?

Mr. PAGE. Yes. I was the major of these eight districts. The four major groups of that experimental group—there were eight of them—the four major groups were St. Louis, Oakland, Dayton, and then Boise, Idaho. I do not know if you could say Boise, Idaho, is a major school district, but it is probably a pretty good size. Also of the four of them, three of those people were on the program in Dallas with me, and all felt exactly the same way and that was in the middle of our experiment. We have not changed our viewpoint since then. We are all very anxious to return to cash in lieu of commodities under this 4-year program that is in front of us, and I would say to you that of the experiment—I do not know what those four smaller groups think, but that would be easy enough to find out.

Could I make just one other observation, Mr. Lynch?

Mr. LYNCH. Sure.

Mr. PAGE. There are about 26 million children eating lunch today in America, and about 10 million of those are free or reduced, and that is what I had reference to in the first portion of my testimony. I hope I am not out of order in saying that, but I think that if the basic aid is eliminated you are going to see the demise of an awful lot of programs across America. That is one of the major problems I think that small business people are facing. You are going to see that the school lunch program is going to shrink down to a small level, so there would not be that purchasing out there of that 80 percent that we are talking about in an awful lot of meals.

If you take the man to my right, he is going to suffer severe financial hardship. St. Louis is not going to have the same impact as they are because we have a high concentration of free and reduced-price meals—90 percent. But if basic aid is eliminated across America, there are going to be a lot of programs cut.

Mr. LYNCH. Would you like to comment on that?

Mr. SMITH. Yes; I would. It would not take much for school boards to switch off this program. As you know, counties, cities, and boards, are all in desperate financial straits and do not have money to support food service programs. More and more boards of education are passing on to school food service costs which were previously absorbed in the budget.

Frankly, we, like some of the other school districts, have gone into the hole this year because of the cuts in Federal funds—and these cuts are compared to the cuts being proposed. School food service systems cannot afford going into the hole. There just is not money available to cover losses. We have got to make a profit. I will be frank about it. A 10-percent reduction in Federal reimbursement would be a considerable amount for us to overcome. A 15-percent or 20-percent cut would be a heavy burden on school food programs. In our situation, we must make money so that we do not have to draw on the county or the board. Therefore, there is an excellent chance that if the reduction in Federal reimbursement is more than 10 percent then we will withdraw from the Federal program. This would mean that we could put carbonated beverages back, which produced $700,000 profit annually.

I recognize that for a nutritional program, carbonated beverages is a heck of a supporting foundation, but if we have to raise our lunches up to $1.20 or more, we may as well sell sandwiches at a lower price and sell carbonated beverages. We would have a financially safer program for producing operating funds than sticking with the national school lunch program. Incidentally, there would be tremendous pressure on States such as Maryland, which has mandated school districts to feed the free and reduced, to change that law. We would likely end up giving free and reduced price students far less than what they are getting now.

Thank you.

Mr. LYNCH. Mr. Topping?

Mr. TOPPING. What Oakland was that?

Mr. PAGE. Oakland, Calif.

Mr. TOPPING. I would like to ask each of you one question. Mr. Page first.

How would you answer those who indicate that change in the commodity system would lead to more abuse and probable fraud? Have you heard that before?

Mr. PAGE. I have heard it but I do not agree with it, sir. We run a school lunch program now, and I have run one for 40 years. I do not feel that in the 40 years that I have been involved in it, there has been any abusive fraud; and there is not going to be any abusive fraud.

Mr. Topping. Are you saying that the program will present itself as the food stamp program is?

Mr. Page. The stamp goes to the recipient, in that case, and I suppose you are dealing at a different level. I hope that we in the school food service are going to have us a little better recordkeeping than that.

Now, if you would notice, I am not really as strong an advocate for the voucher system as I am for just the cash in lieu, but I like the voucher system better than the present system. I opt for it because I think it is a movement from that. If I did not opt for that, I would be in favor of status quo, sir.

Mr. Smith. I would like to say, first, that people—and this works on all levels of government—when they are dedicated to their job, they expand it to include more and more. They also try to cover through regulations every little nook and corner, in fear some misuse of funds will be made in the field. Instead of developing regulations which rely on taking action on exceptions, they overreact. This pertains to AIMS and to many regulatory controls. The control of the food school service program over all is far greater than needs to be. The Federal regulations keep expanding and State agencies add to what the Federal Government imposes. This is a major problem. Again, USDA and State agency people are dedicated in what they are doing. They think that they are doing the right thing, but they forget how to operate by exception, so that there would be less paperwork and less need on continued expansion of the regulations. It has become ridiculous.

What has happened, by the way, the voucher system is that more and more stipulations were added on to it, resulting in more paperwork than it should. The opponents of the voucher system say, How are you going to cover for this? How are you going to cover for that? Well, that is what we have auditors for. This is why we have overall controls. It is impossible to cover every possibility. You have to have some idea of just what can be covered reasonably well, financially. The burden of unnecessary regulations is expensive. Tasty Cake, for example, dropped out of processing agreements in Maryland because there was too much work for them. They then competed without using commodities. Their prices were as low as, if not better than, when they were using commodities. Commodity flour, therefore, did not contribute that much to lowering the cost of their product.

Mr. Lynch. Thank you, gentlemen, very much for taking time to come here today. We appreciate it very much.

Mr. Ireland. The subcommittee will meet again tomorrow morning at 9:30 a.m. in this room.

[Whereupon, at 12:30 p.m. the subcommittee adjourned, to reconvene on Wednesday, April 29, 1981, at 9:30 a.m.]

USDA'S COMMODITY PROCUREMENT PROCESS

WEDNESDAY, APRIL 29, 1981

House of Representatives,
Subcommittee on Export Opportunities
and Special Small Business Problems,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2359-A, Rayburn House Office Building, Hon. Andy Ireland (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN IRELAND

Mr. **Ireland**. Today our subcommittee meets for the second time on the subject of the Department of Agriculture's commodity procurement process.

This morning we are going to hear from the small business community on the subject of their dealings with the USDA and then again on May 13, we will meet at 9:30 in the morning to hear interested individuals who believe the present system is working fairly well.

Following that, after the Department of Agriculture has had an opportunity to review what we have heard they will have an opportunity to testify.

I'd like to call Mr. Stephen Krut, executive director of the American Association of Meat Processors from Elizabethtown, Pa.

TESTIMONY OF STEPHEN F. KRUT, EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF MEAT PROCESSORS, ELIZABETHTOWN, PA.

Mr. **Krut**. Thank you very much. My name is Stephen Krut. I am the executive director of the American Association of Meat Processors which is a nonprofit trade association of approximately 1,500 members representing predominantly the small family owned businesses in the meat processing industry.

They tend to be located in the rural areas and typically have between 5 to 10 employees. We do have a few members with employees numbering around 25 or more but the majority are a 10 employee or less situation and often it is the members of the same family that are involved in the activity within the plant.

Our purpose in being here today is twofold. First, we want to explain and highlight some of the special individual type problems that small plant operators have when they attempt to try to compete with others in bidding on USDA commodities.

Second, we would like to show how the taxpayer could enjoy some enormous tax savings if the local school districts received 100 percent cash to be applied toward the purchase of commodities for the school feeding programs.

Let's begin by examining one major glaring fact and that is: In this Nation there are about 14,000 inspected meat plants. Now, 7,000 of those plants operate under Federal inspection and those are the only plants that are even eligible to bid on USDA commodity contracts and only a small percentage of those are even big enough to bid on the quantities that are necessary to get involved in the USDA bidding contract.

We might mention the ground beef minimum bid, for example. It exceeds 38,000 pounds. A typical small plant may slaughter only 10 to 15 animals, beef animals, in a week's time. So we are looking at an entire week's production in that situation.

We might mention, too, that the percentage of those who have the immediate capital to have their cash flow interrupted through the slow pay process of the Federal Government, it is almost at the point of being ridiculous. They can't understand why they must pay for their livestock within 24 hours. This is a requirement of the Packers and Stockyard Administration and yet they may have to wait several months before their own payment for their own product is secured.

That is only part of the problem. We do have 7,000 other plants that operate under full State inspection. USDA, itself, certifies that these plants must be at least equal to that of the Federal Government in terms of sanitation and product unadulteration. So we are looking at plants again, half as many, that are precluded from even bidding on the contracts. The product is not allowed, under the Federal Meat Inspection Act, to cross State lines.

There are thousands of others and I don't think anybody that I've ever met knows exactly how many but there are thousands of other retail meat operations that could sell directly to schools. They are allowed under USDA policy to sell a total of approximately $27,000 each year in volume to nonhousehold consumers—HRI trade or schools. But they are exempt from continuous formal inspection under the retail exemption provision. They do make excellent products and in many situations they are the only food business in the entire school district area.

We also have, again, that area of competition that is precluded because they again cannot cross State lines with their product, meaning they could not possibly bid on a USDA contract.

As far as the meat plant, we certainly would like to see small meat plants involved in this process. They certainly would provide local jobs. The individuals employed there would certainly pay their taxes to that local school district. But it is a tremendous handicap for a small plant to even consider bidding. When we are looking at volumes of that size, we are saying to that plant, essentially: You'd have to shut down everything else you are doing and work entirely on that contract. It would usually mean bringing in additional people, to even use the same facilities.

Those individuals would be working on a limited time basis. Later in the year there would be no work for them. It is a once or twice a year type of bidding process. It means that they would be involved in unemployment compensation payments again when those people would have to be laid off.

Again, when you bring people in on an infrequent basis they are not used to working in a kill floor or a meat processing activity which is an extremely, highly dangerous area. I think next to mining and some of the construction industries it is probably tops in worker compensation difficulties. At least the rates reflect that attitude. So bringing people in on a part-time basis just to serve contracts that have to be handled, contracts of that size, is totally a dangerous situation.

Small plant operators can't easily produce the products that are required under the school feeding programs. They do in fact produce these now. We are looking at things like ground beef and stew meats, pork and pork patties, chunked, diced meats. They are all manufactured in small plant situations and there is no new technology that would even have to be developed.

Shopping locally would certainly simplify the sheer logistics of getting food into the school cafeteria. Under the current system the successful bidder on a USDA contract typically ships the product first to a central distribution facility. It is then shipped to the school district a second time and what the school district uses immediately, or can store—fine. But the bulk of that shipment then goes a third time to the local meat processor or the locker plant for freezer or refrigeration storage.

How does it get to the school cafeteria from there? It is simply shipped again, a fourth time, from the local plant back to the school. With a total cash program the logistics could be simplified to first, once and done, shipping from the local plant to the school cafeteria when it is needed and in the quantities desired.

Let's take a quick look again at the quantities involved. We are mentioning situations like 30,000 or 38,000 pounds of ground beef. Again, they are impossible quantities for a small processor to bid on. But they are also so impractical for the local school district to handle when product comes in tons at a time.

Any savings that USDA may achieve by obtaining large contract bids are readily dissipated by the cumbersome logistics of just getting it to the schools. Then, more tax money must be used by the local school officials to store the product it cannot use immediately. These are small processors who very typically store these products. They range from 3 to 4 cents a pound up to 10 cents a pound or more and, again, it depends on the type of storage required; the duration; the weights; et cetera. And, again, that expense typically comes out of local tax moneys.

A major aspect of this situation is, and it must be considered, is the energy intensiveness of the present USDA bidding and distribution procedures. Freezing and refrigeration requires energy. We are talking about electricity, gas, or oil. And that is just for the storage requirements created under the present donated commodity policy.

Imagine the totally needless waste of fuel and other energy in distributing the products and shipping them under the present four step system we outlined earlier. Because of the quantities involved, the packaging materials—and many of these are petroleum based materials—are often wasted just because they have to be shipped in odd size or different, unusual sized containers for bulk shipment.

But there is another area of waste that is important to note and in a letter sent to me a meat processor by the name of Clarence Knebel of Knebel's Processing in Belmont, Wis., explains that his local school district utilizes his plant for storage. He reports storing food that was packaged more than 2 years ago. Items such as butter and cheese that are more than 1 year old already. Meat and meat products contain moisture and the longer they are frozen or refrigerated the greater amount of moisture they lose. Imagine how many pounds of valuable meat products are wasted when thousands of pounds of meat are stored by a single school district for months and months.

[Information referred to above follows:]

KNEBEL'S PROCESSING PLANT, INC.,
Belmont, Wis., April 7, 1981.

Attn: Steve Krut.
Subject: U.S.D.A. Donated Foods Program.
AMERICAN ASSOCIATION OF MEAT PROCESSORS,
Elizabethtown, Pa.

DEAR STEVE: A great percentage of the small meat processors are located in more or less rural areas. Even though their overhead expense may be less than the large packers, they cannot compete with the large packer and U.S.D.A. donated foods program.

Most school systems must stay on the government program, even though they would prefer to do business in the local community whose citizens pay the bulk of school taxes.

The government program and large meat packers employ their work force from the populated areas, taking jobs away from the local school districts.

We small meat processors could save taxapayers money on many of the items the government ships to the schools. For instance, most items of government issuance have been processed some distance from their final destination, with a high labor cost and high storage cost. Shipments arrive at the school in large amounts and must be handled and stored again. Freezer storage runs very high.

Our plant does store government issued foods. Even though the school system tries to ask for the issue of food needed, they run short on some items and over on others. When this food arrives at our plant, I'm, sure most of it has been stored for some time. A large amount usually arrives a month to two months after school has started. The school must pay freezer storage at our plant at the rate of 4¢ per lb., which includes delivery to the school as it is needed. At the end of the school year approximately 10 to 20 percent stays in storage until the beginning of the following school year, which is probably another 3 months.

We have food in storage that was packaged over two years ago. We have on hand at the present time, butter and cheese over one year old.

If the total cost from packer to the time the school uses the product were known, I'm sure the small meat processors could not only compete, but could save the taxpayer lots of money.

This would have the added advantage of keeping the rural areas strong by giving them employment, plus allowing the small meat processor a chance to survive.

Sincerely yours,

CLARENCE W. KNEBEL.

Mr. KRUT. Multiply that figure by the thousands of times for the other school districts throughout the Nation and you'll begin to see a picture of waste developing that is not only unconscionable but it is also totally unnecessary.

In another letter Edwin B. Kelley of Elba Packing Co., in Elba, Ala., explained yet another waste factor that is even more considerable. He refers to plate waste. Not only enhanced by the present bidding system but actually created by it.

[Information referred to above follows:]

ELBA PACKING COMPANY, INC.,
Elba, Ala., April 15, 1981.

Subject: USDA Donated Foods Program.

AMERICAN ASSOCIATION OF MEAT PROCESSORS,
Elizabethtown, Pa.

DEAR AAMP: After reading your article in the April 2, *Amplifier*, I decided to take a moment and give you insight on some first hand experience in dealing with this Federal program.

Being a relatively small independent meat processor, our competitive edge lies in the personal service rendered to our customers, and the manufacturing of nothing less than a top quality product. Being a big portion of our customers are schools, with the majority of them being public, we in a sense, caught a curve ball when this program was put into effect.

Various products that we sell to schools are ground beef, beef patties, fish portions and frozen french fried potatoes. About midway of the 1979–80 school year, we found that our sale of these items to schools had dropped substantially. Still further, it soon became apparent that we were the simple answer to the schools storage problem. We, for no reason other than "good-will" to past dedicated customers, agreed at our own expense, to store these over shipments of commodities that the program had so abundantly distributed. Fearing that if we did not, we might further loose the balance of our business with the schools.

Another problem that the schools themselves have found, is that the majority of these commodity products' final destination is the garbage can. This is due to the age of the product when it reaches the schools, and the mishandling of it on its way. By the time it reaches the student, they refuse to eat it, because of its tastelessness and the frequency that it is served. The dietitians must serve it more often in order to make room for the next commodity shipment.

If the USDA would give the school system personal buying power in lieu of commodities, it would allow them to 1) purchase their food locally at a lesser cost, (this has been proven by the study conducted by Kansas State University in conjunction with the USDA); 2) have some stimulative effect on local employment; 3) cut down on their storage requirements; 4) prepare a fresher product, making it tastier and more acceptable by the students.

So in summary, we, the meat processors, received a double punch from the program. Not only did we loose substantial sales, but many of us footed the refrigerated storage bill that the program committee so recklessly misplanned. Hopefully, in reviewing this program, the impact that it and other regulatory programs of the same nature have on the small business and the free enterprise system, will be thoroughly and carefully reconsidered.

Respectfully submitted,

EDWIN B. KELLEY,
Executive Secretary.

Mr. KRUT. The age of products reaching the school cafeteria, the mishandling that so commonly occurs, and the frequency of serving the same items that the massive quantities donated by USDA requires means simply that the product doesn't taste as good as it should and the kids get tired of the same items featured all the time until it is used up. Their solution is simple: They dump it in the trash barrel.

Why can't we provide fresh products, fresh and tasty meats to the youngsters of our Nation. Why cannot the school officials and dietitians be allowed to go buy what they want, when they want it, and receive the optimum quality that they deserve. Every meat processor we know has certain items that he or she features at special prices at various times of the year. Why must we continue operating under a system that does not allow the local school district to take advantage of those specials. And what about the dietitians who find out that youngsters just don't like certain items but when you receive several tons of a product you have got to keep serving it until it is all used up.

With cash the dietitian could go out and purchase local food items that schoolchildren both like and find nutritious. We say, give that dietitian those alternatives.

Fred Lengerich, from Lengerich Meats in Monroe, Ind., makes the final point on the waste involved under the present donated foods program. In his letter, also attached to this statement, he talks about labor and manpower waste and he gives firsthand examples of the school that rents a truck to pick up commodities 30 miles away at a plant where employees refused to load it because the school employee driving the truck is nonunion.

[Letter follows:]

LENGERICH MEATS, INC.,
Monroe, Ind., April 9, 1981.

DEAR SIRS: Since our plant is approximately one mile from the school, it is handy for commodity storage. A few years ago when the school bought ground beef etc. from me, I agreed to help them out with a little storage. At that time it was a few boxes stored occasionally for a short period of time. Now they have about 75 boxes in my freezer so I must charge storage.

About a ton of it is ground pork. We have many thousands of hogs within five miles of our plant so you can see the wasted expense of transporting this pork around the country to and from a plant where the wages are approximately double ours and storing it at todays electric prices. The school rents a truck to pick up the commodities thirty miles away where the employees refuse to load it for them because the school employee driving the truck is non-union. Our tax dollars pay the school employee to hand load each box instead of the dock man loading the pallets with a fork lift. We will deliver to the school anything they buy from us fresh or frozen anytime they want it.

The price paid for some of these commodities is more than I would charge. For instance, the last reported purchase of ground pork that I can find was made January 7, at a $1.09 to $1.18 per lb. Since we are not federally inspected, only *at least equal to,* we cannot bid in the program but we are good enough to store what other companies sell to the school. If the government is as slow paying as they say I probably wouldn't want their business anyhow.

Some of the things the school gets, whole turkeys for instance, are very difficult to use. They get them because of pressure to get everything they can because the cost to the school is very low. Result? The school had a bunch of whole turkeys in my freezer that they don't want to use because of the inconvenience of roasting and carving whole turkeys.

My comment toward cash flow problems created by selling to the Government: It is hard to understand the justice of the Federal Government passing a law that we must pay for livestock within 24 hours but they can pay for the meat we sell them when they get good and ready.

We have some excellent people in our school administration who must use the commodity purchase system to hold down the cost of school lunches. The fact that we really pay extra through taxation is hidden. The less the Federal Government has to do for us the better off we are. If the Federal Government would contribute dollars I believe we could make them go farther.

FRED LENGERICH.

Mr. KRUT. Instead of the dock worker loading the pallets with an available forklift, the school employee is required to handload each individual box. He goes on to talk about manpower waste and items like whole turkeys donated under the USDA commodity program. These turkeys are difficult to use and serve because they take too much time and inconvenience in the roasting and carving.

We hope that we have provided some examples of the problems that now exist and could be corrected if a 100-percent cash allowance policy were instituted. After all, if the local school official is smart enough to shop wisely for 80 percent of the food used in feeding programs, why not 100 percent? This is a classic example of the bumbling bureaucracy in action that should be ended now.

If the purpose of the USDA support program is to help school districts feed their youngsters, then the hinderances and the handicaps imposed under the present donated commodity program should be ended with the aim of allowing the local school official to get the most value from every tax dollar.

I sincerely thank you for the opportunity to present some of these comments to you and if you do have any questions, I would certainly be glad to try and answer them.

Mr. IRELAND. Thank you, Mr. Krut. At the outset, let me make sure that I understand the qualifications of State packers. As a State packer they are not eligible to bid; is that correct?

Mr. KRUT. That is correct. They cannot ship product interstate.

Mr. IRELAND. At the same time qualifications are the same. Every State has got to administer their State packers with the same qualifications.

Mr. KRUT. If the quality of the State inspection program is below, if it is not at least equal to that of USDA, USDA verifies this and they are required to take over that State program.

Mr. IRELAND. You have got equivalency but you can't go across State lines. I just wanted to make sure that that was clear and understood.

Yesterday we had a lady in the food service business who testified and said the USDA specifications for purchase do not contain bacteriological standards. Are you aware of this?

Mr. KRUT. One of the primary problems is that in such a situation we would use as a scenario the meat plant operates under a very sanitary condition and delivers it right to the school. That's the optimum situation.

But when we have anything from pickup trucks to jeeps or buses that are used to pick up product, and it could be at any time of the year and at great distances, the amount of, well, the possibility, the potential for contamination or lessening of quality of that product is just enormous.

Under the present situation there is nothing the school official or schoolworker has in the way of guidelines under which to handle that product in transportation.

USDA does require that the vehicles used in transportation also be subject to inspection.

Mr. IRELAND. The gentleman from Oregon, Mr. Wyden. Do you have a question?

Mr. WYDEN. Thank you very much, Mr. Chairman. I have a couple of short ones. My first one is that the large school system offer cash in lieu of service, a cash in lieu of system kind of approach. What effect can it have on the small school districts, particularly will the schools still be able to deliver these goods at low cost?

Mr. KRUT. What our concern is essentially, again is a matter of logistics. If a large school district probably has a need for a much larger quantity of product, if that product can be provided and delivered locally, we just feel that it makes little sense to have it shipped to Kansas and then back to New Jersey and then down to Florida.

Mr. WYDEN. So in your mind it would not necessarily hurt the small school district?

Mr. Krut. Absolutely not.

Mr. Wyden. The only other question I have is, Are the labor costs different with cash, than with the donated commodities kind of approach?

Mr. Krut. Are the——

Mr. Wyden. Labor costs.

Mr. Krut. Well, the typical small plant operator has employees at work who are usually not unionized. They tend to work at lower wages than you will find in many of the large packing plants. Again, it is not just that factor but the fact you have so many more individuals who have to be paid to handle and rehandle that product under the present system.

Mr. Wyden. So the answer there might be "Yes."

Mr. Krut. Absolutely. Yes.

Mr. Wyden. Thank you very much, Mr. Chairman.

Mr. Ireland. On page 2 of your testimony you say: "In addition there are thousands of other retail meat operations that could sell directly to the schools in quantities up to $27,000 each year."

Could you elaborate on that? How did you arrive at this? What is your source?

Mr. Krut. We're looking at things, situations such as a small store, a small meat counter. An operation that may even do custom work. In other words, a farmer who brings his animals in to have them slaughtered and processed would go to a custom exempt plant.

There is also the situation called a retail exempt plant. You can have a situation again. It is incredible but you may have one part of a plant that is inspected and another part that is not inspected. You can have a retail area that is exempt from inspection. They are allowed to sell to nonhousehold consumers, and we are talking about HRI trade essentially—the hotel, restaurant institutions, and schools. They are allowed to sell $27,000 in volume a year.

That limit was imposed with the expectation that they would be able to supply some to their—some product to their local school district or commerce in their own area.

Mr. Ireland. Those people are closed out under the present system.

Mr. Krut. They could not possibly bid.

Mr. Ireland. Do you know of any instances where the USDA purchases food from a company and then later on rehires that company to process the same food?

Mr. Krut. Yes indeed, that is so common.

Mr. Ireland. Is that very common?

Mr. Krut. Yes; the quantity it is received in—not just the quantity but in the form. Sometimes it has to be further processed for use in the menu planning. They, again, would sometimes go to these smaller plant operators and have them not only store it but sometimes repackage it. Sometimes cut it. Sometimes further process.

You have product again that may have to be reworked to make a baloney.

Mr. Ireland. The gentleman from Iowa, Mr. Smith, any comment?

Mr. Smith. No.

Mr. **Ireland**. Thank you, Mr. Krut. We did appreciate it.

Mr. **Krut**. We thank you for your consideration of our comments and sincerely thank you for the opportunity to bring these matters to your attention.

Mr. **Ireland**. Our next witness is Mr. Robert L. Mays, Jr., Standard Foods Service Co., Hurricane, W. Va. I thought we only had hurricanes in Florida. [Laughter.]

Welcome, Mr. Mays.

TESTIMONY OF ROBERT L. MAYS, JR., PART OWNER, STANDARD FOOD SERVICE, INC., HURRICANE, W. VA.

Mr. **Mays**. Mr. Chairman and members of the committee, my name is Bob Mays, Jr., of Hurricane, W. Va.

Before I begin my testimony I want to say how proud we are in Hurricane of our new Congressman, Mr. Staton. Mr. Staton visited our facility a few years ago and is somewhat familiar with what we do.

I am part owner of Standard Food Service in West Virginia and chairman of the Legislative Liaison Committee of Nifda, Inc., and a member of the Government Relations Committee of the National Frozen Foods Association.

My business employs 86 people in West Virginia and we are engaged in the distribution of institutional foods to restaurants, hospitals, and schools covering the State of West Virginia and parts of Kentucky and Ohio.

Nifda, Inc., headquartered in Atlanta, Ga., is an association of independently owned businesses such as my own, who are drawn together for purposes of more economic procurement, better quality control, cooperative advertising, sales promotion, and distribution. Nifda, the acronym for National Institutional Food Distributor Associates, is made up of over 160 independently owned companies covering 49 States with employee ranges from under 20 to more than 150.

The original purpose for the formation of Nifda was to allow our business to compete and even to survive against the giants of our industry. This buying power would be much greater than that of any one of our individual companies.

The fact that Nifda is now in its 22d year of existence and has purchases approaching $400 million annually attests to our success in competing against some of the large corporations in our industry. There is one organization in our country, however, against which we are not so confident of our future. That organization is the USDA, specifically the commodity distribution system.

A couple of years ago I was here in Washington with several distributors and other members of our industry and we expressed to the Assistant Secretary of Agriculture that our tax dollars were being used to compete against us through the USDA commodity distribution system, that we were being cut out of one of our markets by our own Government.

We were told that at present our industry services 80 percent of the school food service market and that we should quit complaining. It could be a lot less. The problem for our industry is that even though we can provide superior quality, service, and price to the schools, our resources are no match for the Federal Government in that tomorrow, if they want all the school business, they don't earn it—they just take it.

Please allow me to tell you a few examples of waste and inefficiencies brought about by the commodity distribution system. As stated by the USDA, the free enterprise system currently services approximately 80 percent of the needs for school lunches. For the other 20 percent our Government has established a completely separate distribution system—separate warehouses, trucks, drivers, et cetera.

It doesn't make sense, with the energy crisis, to have my truck delivering the jelly and a separate truck for the peanut butter. In the State of West Virginia, after commodities are purchased by the USDA, they are delivered to a warehouse in Charleston operated by the West Virginia Department of Welfare. The department will then deliver the items to the schools' county warehouse for a 15-percent fee or allow the schools to pick up merchandise for a 10-percent fee.

Two commodity items that were delivered to West Virginia schools in January were 6 No. 10 applesauce and 55 pounds of bulk ground beef. The applesauce had a value of $10.07 per case plus 15 percent delivery fee, $1.51, for a total cost to the taxpayers of $11.58. We were selling applesauce during this time for $11.19. I might mention that I have these numbers documented with invoices.

[Information referred to above follows:]

WEST VIRGINIA DEPARTMENT OF WELFARE

DONATED FOODS PROGRAM

INVOICE NO.: 053069

Name of Recipient Agency

Mailing Address

Date: 2-2-81

City State Zip Code

2½ x 3 ¢

7.58 - 7.37 FOB. Plant

					STATE OFFICE USE ONLY			
ITEM	PACKAGE	QUANTITY	IDENTIFY OVERAGE OR SHORTAGE	VALUE		NET WEIGHT PER PACKAGE	TOTAL NET WEIGHT	SECTION
Applesauce	6/#10	233		2346.31	10.07	+1.51	= 11.58	

Please be sure that you have received the items and quantity listed above before affixing your signature. Enter in space provided, amount of any item refused, short or overage.

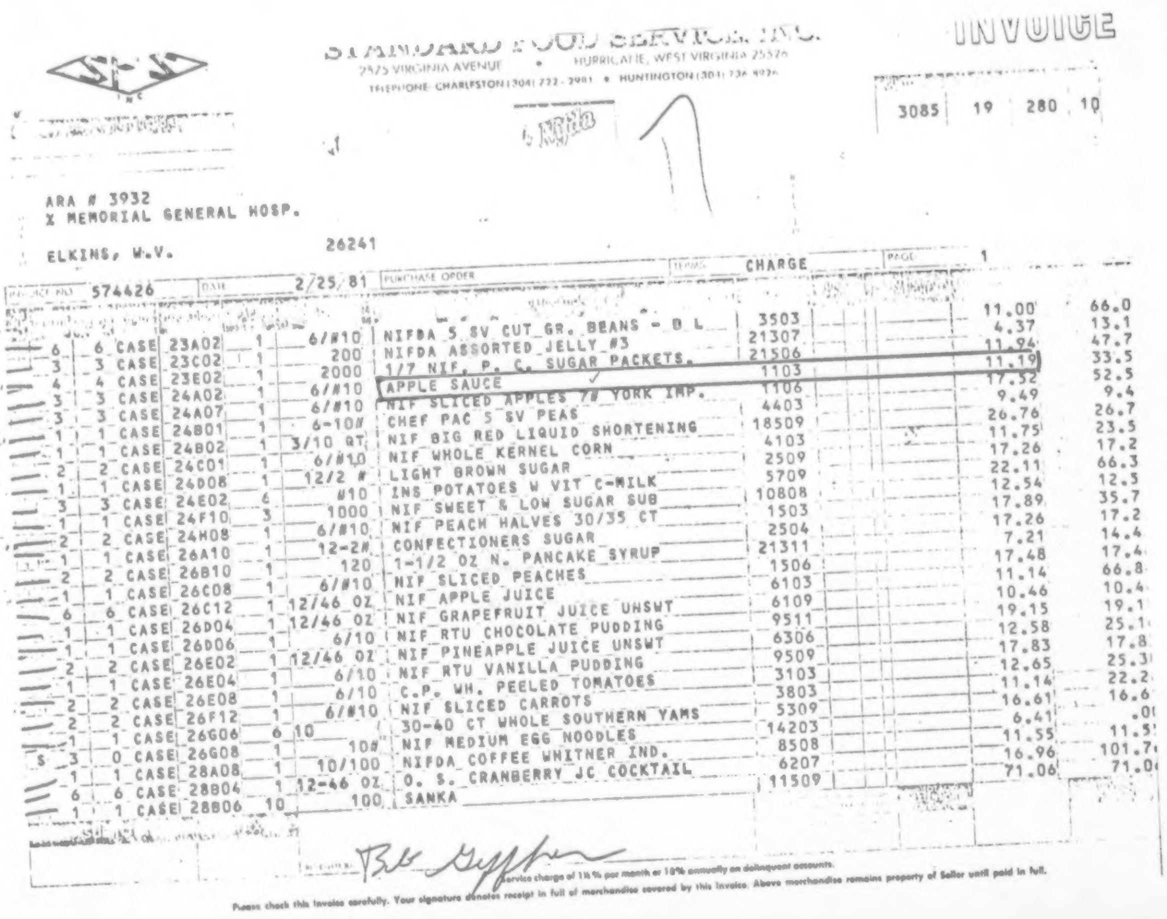
TOTAL VALUE 2346.31
15 %
PAY THIS AMOUNT 351.95

TOTAL NET WEIGHT:

MAKE CHECKS PAYABLE TO: WEST VIRGINIA DEPARTMENT OF WELFARE

FS-DF-7

BEST COPY AVAILABLE



STANDARD FOOD SERVICE, INC.
2575 VIRGINIA AVENUE • HURRICANE, WEST VIRGINIA 25526
TELEPHONE: CHARLESTON (304) 722-2981 • HUNTINGTON (304) 736-9926

Nifda

INVOICE

3085 19 280 10

ARA # 3932
X MEMORIAL GENERAL HOSP.

ELKINS, W.V. 26241

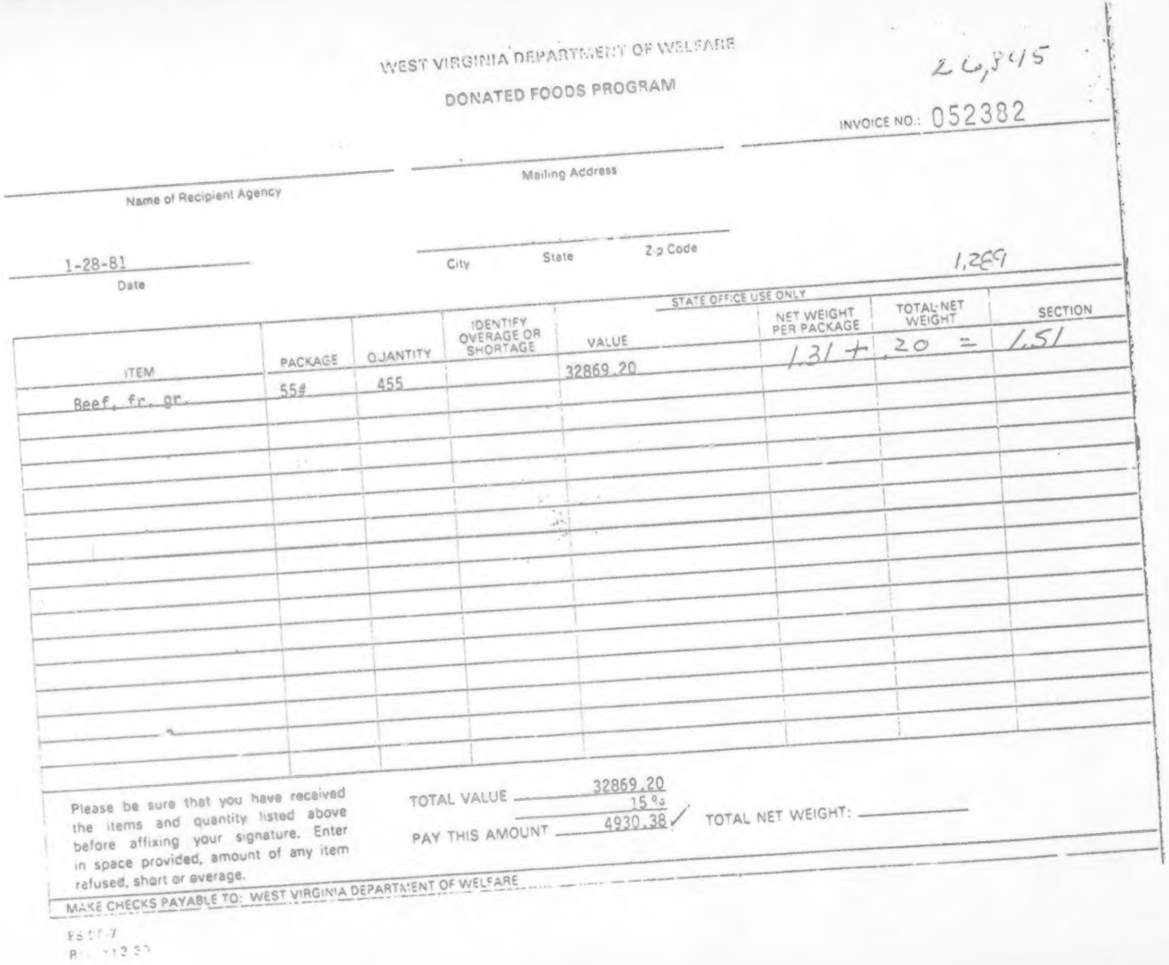
INVOICE NO. 574426 DATE 2/25/81 PURCHASE ORDER TERMS CHARGE PAGE 1

6	6	CASE	23A02	1	6/#10	NIFDA 5 SV CUT GR. BEANS - D L	3503	11.00	66.0
3	3	CASE	23C02	1	200	NIFDA ASSORTED JELLY #3	21307	4.37	13.1
4	4	CASE	23E02	1	2000	1/7 NIF, P. C. SUGAR PACKETS.	21506	11.94	47.7
3	3	CASE	24A02	1	6/#10	APPLE SAUCE	1103	11.19	33.5
3	3	CASE	24A07	1	6/#10	NIF SLICED APPLES 7# YORK IMP.	1106	17.52	52.5
1	1	CASE	24B01	1	6-10#	CHEF PAC 5 SV PEAS	4403	9.49	9.4
1	1	CASE	24B02	1	3/10 QT	NIF BIG RED LIQUID SHORTENING	18509	26.76	26.7
2	2	CASE	24C01	1	6/#10	NIF WHOLE KERNEL CORN	4103	11.75	23.5
1	1	CASE	24D08	1	12/2 #	LIGHT BROWN SUGAR	2509	17.26	17.2
3	3	CASE	24E02	6	#10	INS POTATOES W VIT C-MILK	5709	22.11	66.3
1	1	CASE	24F10	3	1000	NIF SWEET & LOW SUGAR SUB	10808	12.54	12.5
2	2	CASE	24H08	1	6/#10	NIF PEACH HALVES 30/35 CT	1503	17.89	35.7
1	1	CASE	26A10	1	12-2#	CONFECTIONERS SUGAR	2504	17.26	17.2
2	2	CASE	26B10	1	120	1-1/2 OZ N. PANCAKE SYRUP	21311	7.21	14.4
1	1	CASE	26C08	1	6/#10	NIF SLICED PEACHES	1506	17.48	17.4
6	6	CASE	26C12	1	12/46 OZ	NIF APPLE JUICE	6103	11.14	66.8
1	1	CASE	26D04	1	12/46 OZ	NIF GRAPEFRUIT JUICE UNSWT	6109	10.46	10.4
1	1	CASE	26D06	1	6/10	NIF RTU CHOCOLATE PUDDING	9511	19.15	19.1
2	2	CASE	26E02	1	12/46 OZ	NIF PINEAPPLE JUICE UNSWT	6306	12.58	25.1
1	1	CASE	26E04	1	6/10	NIF RTU VANILLA PUDDING	9509	17.83	17.8
2	2	CASE	26E08	1	6/10	C.P. WH. PEELED TOMATOES	3103	12.65	25.3
2	2	CASE	26F12	1	6/#10	NIF SLICED CARROTS	3803	11.14	22.2
1	1	CASE	26G06	6	10	30-40 CT WHOLE SOUTHERN YAMS	5309	16.61	16.6
S 3	0	CASE	26G08	1	10#	NIF MEDIUM EGG NOODLES	14203	6.41	.00
1	1	CASE	28A08	1	10/100	NIFDA COFFEE WHITNER IND.	8508	11.55	11.5
6	6	CASE	28B04	1	12-46 OZ	O. S. CRANBERRY JC COCKTAIL	6207	16.96	101.7
1	1	CASE	28B06	10	100	SANKA	11509	71.06	71.0

Service charge of 1½% per month or 18% annually on delinquent accounts.

Please check this invoice carefully. Your signature denotes receipt in full of merchandise covered by this invoice. Above merchandise remains property of Seller until paid in full.

BEST COPY AVAILABLE



WEST VIRGINIA DEPARTMENT OF WELFARE

DONATED FOODS PROGRAM

26,845

INVOICE NO.: 052382

Name of Recipient Agency

Mailing Address

1-28-81
Date

City State Zip Code

1,289

					STATE OFFICE USE ONLY		
ITEM	PACKAGE	QUANTITY	IDENTIFY OVERAGE OR SHORTAGE	VALUE	NET WEIGHT PER PACKAGE	TOTAL-NET WEIGHT	SECTION
Beef, fr. gr.	55#	455		32869.20	1.31 +	.20 =	1.51

Please be sure that you have received the items and quantity listed above before affixing your signature. Enter in space provided, amount of any item refused, short or overage.

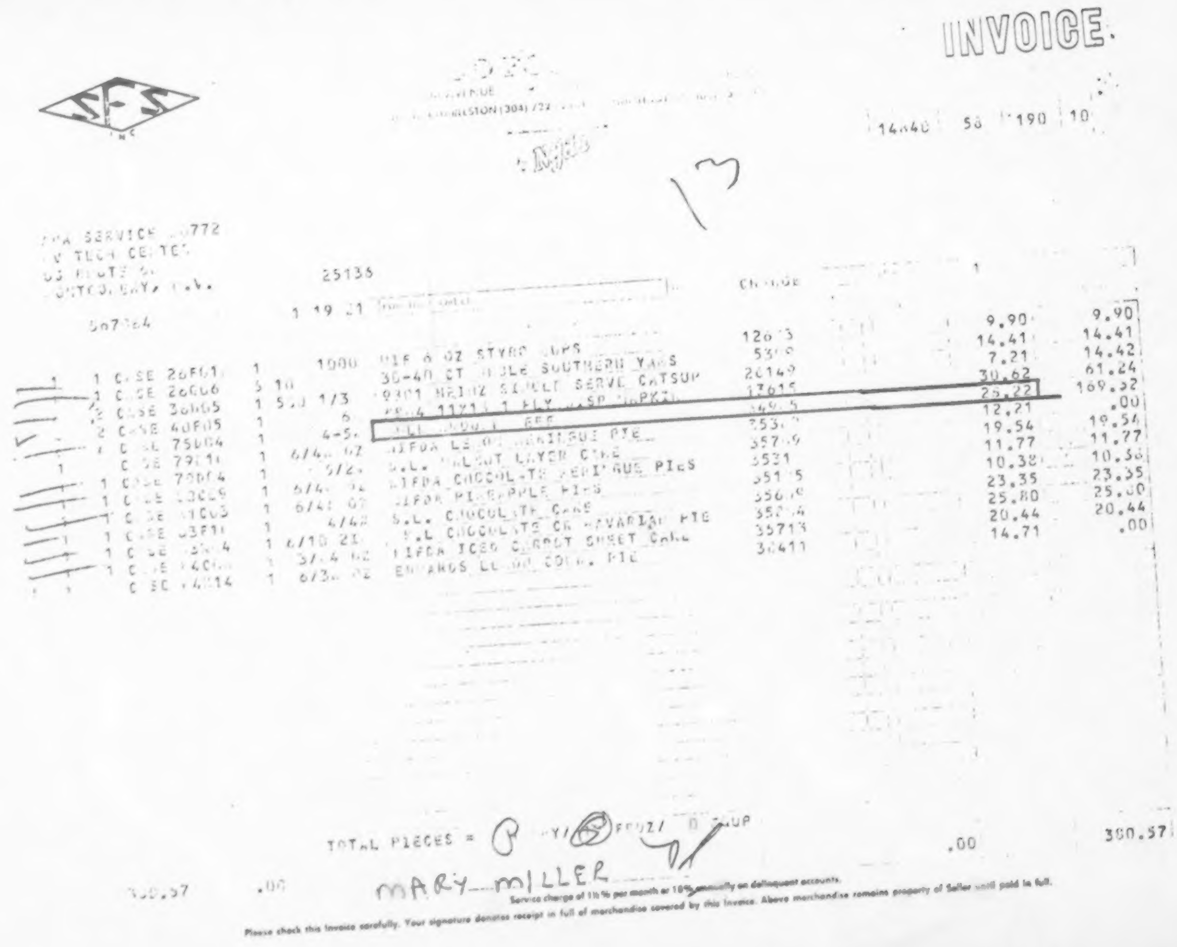
TOTAL VALUE 32869.20
15%
PAY THIS AMOUNT 4930.38 ✓

TOTAL NET WEIGHT:

MAKE CHECKS PAYABLE TO: WEST VIRGINIA DEPARTMENT OF WELFARE

[illegible]

BEST COPY AVAILABLE



INVOICE.

SFS INC

AVENUE
CHARLESTON (304) 72

14840 | 58 | 190 | 10

13

FA SERVICE 0772
WV TECH CENTER
US ROUTE 60
MONTGOMERY, W.V.

25136

CHARGE

567364

1 19 21

1	CASE 26F01	1	1000	PIF 6 OZ STYRO CUPS	12613	9.90	9.90
1	CASE 26G06	5 10		30-40 CT SINGLE SOUTHERN YAMS	53[illegible]	14.41	14.41
2	CASE 36G05	1	500 1/3	9301 HEINZ SINGLE SERVE CATSUP	20149	7.21	14.42
2	CASE 40F05	1	6	PK 4 11X11 1 PLY DISP NAPKIN	17615	30.62	61.24
	CASE 75D04	1	4-5	[illegible] EGG	[illegible]	25.22	169.32
1	CASE 79[illegible]	1	6/4 OZ	SIFDA LEMON MERINGUE PIE	253[illegible]	12.21	.00
1	CASE 70D04	1	5/2	S.L. WALNUT LAYER CAKE	357[illegible]	19.54	19.54
1	CASE [illegible]	1	6/4 OZ	SIFDA CHOCOLATE MERINGUE PIES	3531	11.77	11.77
1	CASE [illegible]	1	6/4 OZ	SIFDA PINEAPPLE PIES	351[illegible]5	10.38	10.38
1	CASE 03F11	1	4/4	S.L. CHOCOLATE CAKE	356[illegible]	23.35	23.35
1	CASE [illegible]4	1	6/10 21	S.L CHOCOLATE CR BAVARIAN PIE	352[illegible]4	25.80	25.00
1	CASE [illegible]	1	3/4 OZ	SIFDA ICED CARROT SHEET CAKE	35713	20.44	20.44
	CASE [illegible]14	1	6/3 OZ	EDWARDS LEMON COCO. PIE	30411	14.71	.00

TOTAL PIECES = 8 DRY/ 5 FROZ/ 0 SOUP .00 380.57

380.57 .00

MARY MILLER

Service charge of 1½% per month or 18% annually on delinquent accounts.
Please check this invoice carefully. Your signature denotes receipt in full of merchandise covered by this invoice. Above merchandise remains property of Seller until paid in full.

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Mr. MAYS. The bulk ground beef purchased by the USDA had a value of $1.31 per pound plus a 20-cent delivery charge by the West Virginia Department of Welfare for cost to the taxpayer of $1.51 per pound. We were selling ground beef at the time for $1.42 per pound. Our ground beef was delivered to the school and not a central warehouse where it would still need distribution to the school's kitchen. Our ground beef was packaged in four 5-pound usable units rather than 55-pound bulk. Why is this? Because of the free enterprise system that says my standard of living is dependent upon having a product that is desired by the consumer.

Please don't misunderstand me. I think most schools would relate that they don't like the size that the USDA's comes in. Quite often they don't like it when they receive it or the amounts they receive. What they are happy with is the price. The only price the schools see is the 20-cents-a-pound delivery fee. I submit that this is not the only price to the taxpayer.

I have had school food service directors tell me that they would prefer to receive the equivalent cash value of these commodities rather than the commodity itself. Some reasons are as follows: They have had their menu cycles greatly disrupted by untimely delivery of commodities. They have had their storage space completely taken up by commodities and had large amounts delivered in the late spring and subsequent storage over the summer has resulted in theft and spoilage.

I know a food service director in Ohio who last week told me he had over a year's supply of cornmeal, oats, wheat, and rice at his schools. Obviously, over the summer these item will spoil or become bug infested. Therefore, he intends to store them in his freezer. At the cost of energy today, this has to be an expensive proposition.

You heard the previous witness talk of the high energy cost of freezing meat. How about freezing cornmeal? I know that schools have asked their cooks to take Government purchased commodities home and store it in their home freezers because of lack of space. I know of schools in Ohio that had 2-year supplies of shortening and no deep fryers. And a year's supply of peanut butter. They are not presently too upset about the peanut butter because the only cost they see is a $1.40-per-case delivery fee, charged to Ohio schools. Again, that is not the taxpayers' cost.

Many directors would rather have an equivalent in cash to buy what they need, in the amount they need, and when they need it. One of the most extreme examples of waste that I am aware of is at a high school not too far from my home that was constructing a new high jump pit. When digging out the old pit they discovered case after case of Government purchased commodities. It seems that the janitor had been told that the storeroom was full and to get rid of some of the commodities.

You may ask: Why weren't these commodities refused to begin with? I think there are two reasons. The notion that these commodities are free, so why not take them, and the fear of being slighted in the future by the State commodity director in the distribution of some of the more favored items.

Because this committee is particularly concerned with the impact on small business, let me turn again to that issue. Businessmen, large or small, are adverse to uncertainty yet with the present situation we are not aware of when or what commodities the schools will be receiving. The schools, themselves, are not aware. We've had orders in our computers for next day delivery and been called by the school to cancel a particular item because they had received it from the Government.

We've had to bring back orders on our trucks because the school stockrooms were full of just received shipments of commodities. I'd like to describe a situation which has happened to my company and many others across the country: We have been awarded bids on a competitive basis for delivering certain items to a school district. Then, after building our inventory in anticipation of this business we are denied it because of shipments of the same item delivered to these schools.

Today's high interest rates makes this inflated inventory a bitter pill for us to swallow but to add insult to injury most of us are then required to pay a personal property tax based on the value of our inventory which has just been inflated as I described. The fact that this personal property tax is used to support the schools who have just been denied to us as a customer, makes this pill no less bitter.

To sum up my feelings as a businessman, we want a chance to compete. If we can provide a product which satisfies the demands of our market, we don't want to be denied that market by a Government we are supporting.

Thank you. I would be happy to answer any questions.

Mr. IRELAND. Thank you. That was excellent testimony. I appreciate you providing documentation.

You have instant cancellation in any contract that you get with the schools, based on the fact that the schools are in a position of canceling out because all of a sudden Federal commodities arrive. Do you believe that some businesses try to compensate for that by, in the bids, adding an uncertainty charge? In other words, if you knew they were bound to take it, would you charge any less?

Mr. MAYS. I think that we possibly could. There is a problem with communication with the schools and we have this unknown to deal with and there have been situations where possibly schools could have more distributors bidding on their business, where the distributor is not faced with this uncertainty.

Mr. IRELAND. Our staff director has a question or two for you.

Mr. LYNCH. Yesterday we had testimony that a school district would contract with a local distributor, or processor. The goods would be delivered but then USDA would not send payment very promptly to the school district. As a result the school district had some of their people waiting as long as 3, 4, or 5 months, to receive payment, which obviously put a large burden on the small businessman.

Is this happening in your area?

Mr. MAYS. I would say, quite frankly, the situation has improved over times in the past. Schools don't pay, ordinarily, quite as promptly as restaurants or people like that but we used to have a 90- or 120-day situation and it has improved to between 30 to 60 days.

Mr. LYNCH. Another example was brought up; for example, applesauce. One school district was purchasing applesauce from a certain person every year and they told them "we are going to need more applesauce." They had not yet given the contract. The small businessman went out and got applesauce from wherever he gets the applesauce, had it on hand, and then the USDA showed up with a carload of applesauce and it was dumped at the school district. The school district went to the small businessman and said: "We're really sorry but now we have a 3-year supply and we can't buy it." The small businessman now has it on hand and doesn't know what to do with it.

Are there examples in your area of this happening, also?

Mr. **Mays**. Yes, sir. I know of a Nifda distributor in North Carolina last year who was awarded a bid for tomato sauce and the USDA sent in tomato sauce at a price more expensive than the distributor was awarded the bid for, but here was a distributor stuck with the inventory.

Mr. **Lynch**. Can you obtain that information for our records?

Mr. **Mays**. Yes, sir. I could make that available.

[Information follows:]

Standard Food Service, Inc.,
Hurricane, W. Va., May 18, 1981.

Mr. Stephen P. Lynch,
U.S. House of Representatives,
Committee on Small Business,
Washington, D.C.

Dear Mr. Lynch: In response to your question, the Distributor was Bell Distributing Company of Asheville, North Carolina and the products in question were whole peeled tomatoes last year and green beans and peaches this year. The customer was the Buncombe County School District. Mr. Robert Bell of Bell Distributing related that the school system reserves the right to change quantities on their bid, due to the commodity system. That would be equivalent to the military saying, "Give me a bid for 100 tanks, but it may be only 10, or it may be none."

Mr. Lynch, thank you for the opportunity to testify.

Sincerely,

Robert L. Mays, Jr.,
Vice President of Finance.

Mr. **Lynch**. Thank you very much. No more questions.

Mr. **Ireland**. Thank you.

Mr. **Mays**. Thank you.

Mr. **Ireland**. Our next witness is Mr. Matthew A. Chiara, small business consultant, Lawrence, Mass.

TESTIMONY OF MATTHEW A. CHIARA, SMALL BUSINESS CONSULTANT, LAWRENCE, MASS.

Mr. **Chiara**. Good morning, Mr. Chairman. Gentlemen, my name is Matthew A. Chiara. I am a former president of a very small company, Cheese Corp. of America, and presently doing small business consultant work.

My experience with the school lunch program relates to the years of 1969 through 1979, as president of Cheese Corp. of America. As a small, local cheese manufacturer, Cheese Corp. of America developed cheese-related entrees for the school lunch program and sold to schools in Massachusetts on a cash basis.

Because of my lifelong experience in cheese and a knowledge of the dairy industry, I became aware of the unusual accumulation of dry milk, flour, and butter in Government inventory. I also became aware of the fact that dry milk was deteriorating in storage under the commodity purchase program and that possibly I could be helpful in processing it into Mozzarella cheese for the benefit of my small company and the school districts.

My curiosity led me to the revelation that the agricultural laws provided for the additional processing of donated commodities in order to prevent waste and spoilage. Since dry milk in many cases was deteriorating, the Commodity Credit Corporation was then selling deteriorated, old dry milk for one-third to one-half of its purchase price to the pet food industry.

Because of these facts I created the first proposal for the manufacture of dry milk, butter, flour into pizza which resulted in the first such pizza commodity contract in the country.

The only justification for this type of food processing was to prevent waste caused by old age spoilage. No company could purchase dry milk and butter and make a Mozzarella and compete with a manufacturer using the original fluid milk. It does not make sense to take fluid milk, pay the cost of drying, and then restore it back to its orginal fluid state to make cheese, when you can make it from the fluid milk in the first place.

This circus type, noneconomical type processing, could be justified only to save deteriorating aged dry milk and at that time, in 1973, we had approximately 600 million pounds in inventory. Our commodity inventory program has not improved very much since then because Commodity Credit Corporation has accumulated in excess of the same 600 million pounds and Commodity Credit Corporation is still selling deteriorated old, nonfat dry milk to the pet food industry at a highly marked down price. Our pets rate higher in food bargains with Commodity Credit Corporation than do taxpayers.

I do not have the statistics to back up the following assertions; however, I can assure you that from my personal experience as president of Cheese Corp. of America, I became a leading entrepreneur of innovative methods for small business participation in salvaging the excesses created by the national commodity program which was thrust on State commodity directors for salvage.

Small business, State commodity directors, and school districts have done an excellent job trying to handle a national commodity program totally out of control and no longer serving the public interest. I spent 7 years handling these tough problems with State directors only to find my work being pirated by the adoption of dry milk conversion to Mozzarella in 1978 by the Commodity Credit Corporation on a national bid basis.

When this type of processing went national, Cheese Corp. had to meet a plant inspection approval from USDA, which it could not afford. After it spent working capital on emergency plant relocation for the USDA processing, it was charged about $2,000 a week for continuous FSQS inspection so that good manufacturing practices could be monitored by FSQS, USDA for product compliance and acceptance.

The rest of the saga of Cheese Corp. is detailed in the enclosed chronology of the bureaucratic destruction of a small business. I don't have statistics but I saw 10 years of my hard work and successful programs with State processing go down the drain when my small business suddenly became involved with national processing.

National commodity rules exist for the benefit of big business. National processing and its related bureaucratic agencies destroyed my small business and at age 55 I am still trying to go back into the food business which is what I really know best.

For those who have not experienced the power and confusion of the bureaucracy, it is difficult to understand that Government can destroy small business unknowingly.

I can answer any questions that you may have. Thank you.

Mr. IRELAND. Thank you for an excellent, clear statement about the bureaucracy destroying small business.

I want to ask my staff director, Mr. Lynch, to ask you a few questions.

Mr. LYNCH. Mr. Chiara, first of all for the record we want to thank you for the documentation you have attached. The Office of Advocacy has worked with you over the past few years regarding this problem and helped you collect moneys owed from the Agriculture Department. They did help straighten out some of the problem although eventually I guess they fell before the bureaucratic flood.

First of all, you were awarded the first such commodity processing contract. You in fact developed this process. Is that correct?

Mr. CHIARA. That is correct. The conversion of dry milk into cheese is not really a new scientific discovery; however, the application to salvage dry milk in Government warehouses was conceived by me. In effect, what I had done is I had converted dry milk and was able to compete with big business because I was able to pass on a credit of the value of that dry milk and a finished product, thereby selling Mozzarella as well as cheese-related entrees to the school lunch programs at a highly reduced price—at approximately 50 percent of the Mozzarella price.

There is no question but that that disturbed the existing distribution system and manufacturing system of the larger cheese manufacturers.

Mr. LYNCH. Did some other small businessmen follow suit?

Mr. CHIARA. Yes, it was an ideal thing for a small business cheese manufacturer and the reason it was because your milk supply has eventually, gradually, and consistently gone to the large manufacturer. And here, my little cheese plant, well, it was a natural to pick up dry milk where it had lost production capacity with the drying up of the fluid milk for the small cheese manufacturers. Many others like myself then started participating in the program on a State level. There were other small cheese manufacturers in New Jersey. Other small cheese manufacturers in Pennsylvania and New York who were picking this up on a local basis and converting it for the benefit of the school districts and also in the form that was best usable for the school district.

I had developed a system of taking the dry milk, making Mozzarella, and rather than going into a loaf form, going into a shredded or chopped form which is the way the schools could use it. USDA adopted the same conversion system but they put it into a loaf form and many school districts did not have the equipment to reduce it in size to a point where they could use it.

I proposed this system to the FNS department and the FNS picked it up and they said: "It is better to deliver it this way—certainly for distribution purposes in a frozen state; however, it is not the norm in the industry." The bigger manufacturers are producing it in loaf form so they didn't accept the concept. So the loaf was distributed and this presented a problem for many school districts, especially the smaller school districts that do not have the equipment to either chop it or shred it.

Mr. **Lynch**. At that point, when the Agriculture Department decided to change all this, the new requirements they put in also effectively put you and the other small people who had been using this process out of the system, at least temporarily because you could not meet their requirements. Is that correct?

Mr. **Chiara**. There is no question about it. The other small manufacturers just fell by the wayside. I had developed such a sizable business in seven States with this that I felt I could take the risk of investing in relocation of the plant.

Mr. **Lynch**. Where did you relocate to?

Mr. **Chiara**. I relocated to Amsterdam, N.Y. I found a dairy plant. I requested of our plant first. FSQS came in. I paid for their inspection. They determined that I was running a multiprocess operation because what I did was I was producing cheese-related items such as pizza and the pasta frozen products.

They said it would be too confusing: "You've got to have a one item operation." Therefore I was forced into upstate New York and I had to make a major adjustment for a small business and use working capital to comply with their requirements.

Mr. **Lynch**. Did you obtain additional financing as well?

Mr. **Chiara**. Yes. What I did was, the SBA was great in that respect. I got a contract financing, to finance that particular contract and we were finally producing 100,000 pounds of cheese a week up there.

My bank participated in it. But it was SBA guaranteed. Now, when FDA came in we were paying those inspectors $2,000 a week to monitor the quality under continuous inspection.

FDA came in and performed a test which was not in the purchase contract and that was for extraneous matter and FDA determined that USDA should have been running extraneous matter tests and they discovered minute, harmless, microscopic, nonvisual metal particles in the cheese. Technically, the Food and Cosmetic Act says if you have one particle foreign to the food that you are producing, that food is adulterated.

So it is as broad as you want to apply it. And they applied it. What it did was it created a problem for USDA. They called me on Friday, July 13, 1979, and they said:

> We can no longer guarantee what we have already received, that we haven't paid for, and we cannot guarantee payment for anything that you may produce in the future because FDA does not have standards and because they don't have standards we cannot predict whether they will allow us to distribute the Mozzarella cheese that we can purchase under our purchase spec's.

Mr. **Lynch**. At that point, how much money?

Mr. **Chiara**. At that point we were owed over $150,000 and I notified the bank and the bank got Senator Tsongas involved and as a result there was a meeting arranged between the USDA and

FDA to try to get them to establish some standards because FDA had no standards on extraneous matter and the fact is we were able to prove that this type of defect was common in the industry and I am sure is common in most industries.

Mr. LYNCH. In fact, wasn't it common in some of the food, the dry milk, that they themselves had purchased?

Mr. CHIARA. Yes, it was also common in dry milk because we analyzed the dry milk they were supplying and we found metal fragments there.

Mr. LYNCH. What about the money they owed you?

Mr. CHIARA. That's were our advocacy did help. Paul Pumpin, Attorney Paul Pumpin, was very helpful. He was from Milt Stewart's office. He arranged a meeting between FDA people and USDA and he finally got them to agree on an informal standard and they ran tests on the cheese we had had and we complied and they started to release the money.

Assistant Secretary Carol Tucker Foreman overruled FSQS and insisted on random sampling on all cheese that had been manufactured, wherever it was. That created another bureaucratic problem and the effect of that was that Cheese Corp. got ensnared in all this redtape and payment wasn't effected until November and finally, by that time, Cheese Corp. was out of business.

Mr. LYNCH. Which was what? About 8 months?

Mr. CHIARA. About 7 months. Yes. They finally did pay. They finally did distribute.

Mr. LYNCH. We may want to submit some more questions later in writing to you, but that is all I have for now. Thank you very much.

Mr. IRELAND. Do you have any questions?

Mr. TOPPING. No.

Mr. IRELAND. Thank you Mr. Chiara, that was excellent.

[Additional material supplied by Mr. Chiara for the hearing record follows:]

CHEESE CORP. OF AMERICA, INC.,
Lawrence, Mass., November 16, 1979.

CHRONOLOGY OF THE BUREAUCRATIC DESTRUCTION OF A SMALL BUSINESS

1. 3/23/79: FDA visits Cheese Corporation of America, Inc., 4 Bell Street because of teflon streak evidence on cheese. Teflon is food approved frying pan and machinery coating.
2. 4/20/79: FDA sends report of analysis and discovery of microscopic, non-visual, harmless metal particles. Claims problem unique at Cheese Corporation, Amsterdam.
3. 5/79: FDA makes seizures in Pennsylvania of this mozzarella which FDA describes as adulterated.
4. 7/9/79: FDA, Buffalo notified Mr. Chiara that USDA manufacturing practices monitored at CCA not adequate and tests for microscopics should have been performed by USDA.
5. 7/13/79: FDA notified New York State of possible injunction vs CCA, Amsterdam and of adulterated mozzarella from Amsterdam in Albany Warehouse, New York.
6. 7/13/79: USDA notified Mr. Chiara that USDA can no longer guarantee payment of any future mozzarella produced or product already produced because of FDA's lack of standards and its actions of adulterated branding of cheese from CCA, Amsterdam plant. USDA could no longer predict what FDA would do.
7. 7/10/79: FDA makes additional seizure in Portsmouth, Va. and places 3 truck loads of USDA accepted mozzarella under seizure.

8. 7/16/79: CCA proves to FDA that microscopic, harmless, non-visual metal particles, unavoidable and common to mozzarella industry, which uses cheese and milk machinery. Report of analysis of six commercial companies submitted to USDA. Further USDA non-fat dry milk supplied to CCA has metal fragments.

9. 8/9/79: FDA sets up unofficial limits of 100 particles per 225 gm sample. FDA refuses to set up official defect action limits or standards.

10. 8/23/79: In Washington, FDA-USDA meeting held with CCA attorney and SBA Advocacy attorney. Decision made by USDA to release payment to CCA based on FDA written guarantee that FDA would not seize USDA-Amsterdam plant mozzarella as described.

11. 9/18/79: USDA makes one $19,638.33 payment after which Assistant Secretary of Agriculture CCC, Kansas, to hold all payments pending re-sampling by FDA. Ownership of mozzarella questioned.

12. 10/5/79: Re-sampling of USDA distributed mozzarella completed in four states by FDA.

13. 10/15/79: FDA tabulates analysis results, and completes its report.

14. 10/15/79: Meeting held with SBA Advocacy, Special Assistant to Assistant Secretary of Agriculture, FNS & FSQS of Agriculture, and FDA. Special Assistant to Assistant Secretary of Agriculture authorizes payment except for 3 vats of cheese.

15. 10/22/79: Partial payment of $34,000 made on cheese except for 3 vats, and storage charges and liquidated damages resulting from original notice 7/13/79.

16. 10/29/79: Payment authorized by USDA for $20,000 less charges of $9,000.

17. 11/16/79: Final payment, all of which was due no later than July 23rd, will not be paid because of warehouse charges accumulated during this period of USDA/FDA controversy.

During this period, CCA had to release fifty employees, lost its Bank Credit; unable to pay 150 creditors and has been put out of business.

CHEESE CORP. OF AMERICA, INC.,
Lawrence, Mass., October 12, 1979.

DEAR CREDITOR: I want to thank you for your extreme patience since all funds and operations ceased on July 13th, resulting from unjustified bureaucratic actions as described in previous media communications we sent you as well as the enclosed current media publications.

I still have confidence in the campaign promise of our President that he would make government "compassionate and responsive" to consumers and business.

Certainly he is not aware of the nightmare of fifty consumer's out of jobs, and the total immobilization of my small business, causing me to be employed as a consultant with Idle Wild Farms for family income.

Certainly our President is not aware of the impact on one hundred and fifty creditors caused by the unjustified actions of his "well intended bureacratic persons."

I am asking for a personal appointment with Mr. Vernon Weaver, who coordinated for us some previous action with his legal office for small business advocacy and Mr. Paul Pumpian, attorney with Mr. Mel Stuart's SBA Advocacy Office.

I feel our government did this to my company, and I am asking for government help to re-activate this business so that we can re-employ our people.

I will advise you of the results of the meeting as well as keep you current with any changes in the status of Cheese Corporation of America, Inc.

Sincerely,

MATTHEW A. CHIARA, *President.*

[From the Schenectady Gazette, Aug. 17, 1979]

CHEESE FIRMS MAY SHARE MOZZARELLA METAL MALADY

(By Doug Miller)

Mozzarella cheese adulterated with tiny bits of metal—the cause for shutting down a Cheese Corp. of America plant in Amsterdam recently—may not be endemic to that one manufacturer. Cheese produced by at least five other companies may also be contaminated.

An analysis report from Herbert V. Shuster Inc., an independent testing laboratory in Quincy, Mass., shows that metal fragments of less than .5 millimeters have been found in samples of these mozzarella cheeses:

—Stella Low Moisture Part Skin Mozzarella Cheese.
—Heluva Good Low Moisture Mozzarella Cheese.
—Grand Union Whole Milk Mozzarella Cheese.
—Caruso Low Moisture Whole Milk Mozzarella.
—Sal Caruso, The Original Caruso Cheese, Low Moisture Whole Milk Mozzarella.

The number of metal fragments ranged from a high of 85 per 26-ounce package in the case of Heluva Good Cheese, to one in a 12-ounce package of Caruso Low Moisture Mozzarella.

George Bierman, president of Shuster Inc., verified the figures, and confirmed that all samples came to him in their original wrappers.

The presence of metal fragments in these samples does not necessarily mean every package of the brand name cheese is contaminated.

A technical interpretation of Federal Food and Drug Administration statutes, which reportedly are without standards for metal fragments in cheese, would categorize as adulterated any cheese that contains any foreign material.

Matthew Chiara, president of Cheese Corp., of America, submitted the samples—taken from supermarket shelves in Amsterdam, he said—to the independent laboratory for testing. His purpose was to prove that cheese companies besides his own are also producing mozzarella cheese with metal fragments in it. It is an "unavoidable defect" in the processing method, he declared.

Chiara closed his Amsterdam plant last month and laid off 25 employees, when over 100 cases of mozzarella cheese produced there were seized by the FDA because it was contaminated with metal bits and flakes of Teflon.

Thousands of pounds of his cheese were being held in warehouses awaiting some decisions from the FDA, when the Bureau of Foods in Washington, D.C., handed down an informal tolerance level of not more than 100 fragments of metal .5 millimeters in size or less per 225 grams of cheese.

But the tolerance level is unofficial, Chiara complained, which means that even though his and other manufacturers' cheese come within the limit, they are still technically adulterated.

Chiara said yesterday that the United States Department of Agriculture, with which he is contracted to sell the mozzarella for school lunch programs, refused to incorporate the tolerance level into his contract. Without such a clause, he explained, no bank will finance his cheese production for fear that it may be seized by the government and held from sale.

"They put us out of business and we have no guideline, no regulation, no standard that would assure all of us we would not be (violating) the Food and Cosmetic Act," he stated.

A meeting has been set up by White House staff between him and top USDA and FDA officials next Thursday in Washington, Chiara said yesterday. No information confirming that purported meeting was available last night from the Office of Media Liaison at the White House.

Concerning the report of the independent laboratory, Fred Adler of Universal Foods Corp., in Wisconsin, manufacturer of Stella brand mozzarella, said cheese vats are checked routinely for extraneous matter, though every vat is not sampled.

"If you did eat food that isn't 100 percent what it's supposed to be," he said, "you would eat nothing."

He said he was surprised to hear of the analysis results.

So did Geff Yancy, executive vice president of Cheese Joint Inc., in Sodus, N.Y., manufacturer of Heluva Good brand cheese. "Something like that would be unacceptable with us" he declared. He acknowledged, though, that "we do not generally pass it (mozzarella cheese) under a metal scanner."

Donald Vailiancourt of Grand Union Co.'s public relations office declined substantive comment until the analysis report has been examined by his company. Its mozzarella cheese is produced by another manufacture to Grand Union's specifications, he explanied, and is routinely checked for metal.

He stated that his company would be conducting its own investigation into the alleged problem

The other two producers could not be reached for comment.

[From the Food Chemical News, Sept. 10, 1979]

USDA RELUCTANT TO RELEASE CHEESE WITH METAL FILINGS DESPITE FDA'S OK

The Department of Agriculture is holding nearly 150,000 pounds of mozzarella cheese destined for the School Lunch Program because it contains minute aluminum filings and has asked the Food and Drug Administration to review the situation a second time to determine what should be done with the product.

FDA has no action level for metal filings in cheese and usually deals with the problem on a case-by-case basis. It initially told USDA-ers that the cheese posed no hazard to health because the filings were so small, but USDA was uneasy about using the product in the School Lunch Program and consequently asked FDA to take some more samples of the product.

USDA found the metal filing in one carlot—which consists of 33,000 pounds—of the product during routine acceptance procedures conducted to determine if the product met USDA specifications. The product was made from nonfat dry milk USDA had supplied to the firm, which produced the cheese under contract for the Department. The firm is the Cheese Corporation of America, Amsterdam, N.Y.

After the metal filings were discovered, FDA seized the one carlot and took its own samples. Reportedly, FDA will ask that only 45 out of 800 cases of the carlot be destroyed, and will release the other cheese in the lot.

Another four and one-half carlots were also produced by the firm for the School Lunch Program. USDA wanted FDA to sample this product also, but FDA declined. USDA then took 25 samples from the four and one-half carlots for analysis in its own laboratories. Very small metal filings were found in the cheese.

Based on the USDA results, FDA said there was no health problem and the cheese could be released. It was then that USDA asked FDA to take another look at the situation, and the Department is currently waiting for some word from FDA.

The problem is compounded because it is unclear who owns the cheese. Apparently USDA paid for two of the lots, but not for the others.

While USDA has always deferred to FDA on health matters, the situation raises the question of how much contamination USDA should allow in food destined for the School Lunch Program and whether the Department should set standards higher than those set by FDA for food in regular commerce.

[From Between the Lines, Sept. 24, 1979]

COMMODITY PROCESSING REGULATIONS STILL A WAYS OFF

Some time ago, we reported to you that new regulations for commodity processing were imminent from the USDA. That deadline has come and gone and we believe the regulations at this point are still a ways off. Within the last week there has been substantial redrafting and editing done even before the proposals must wind their way through the various internal review processes of the Department. The most updated information on what the Department is thinking comes from an information sheet provided by the Food Distribution Division for the NFFA Government Issues Workshop. Single copies of this are available from NFFA's Government Relations Office in Washington, D.C. to member companies. As soon as anything new develops, you will be advised.

GOVERNMENT REDTAPE TIES UP 150,000 POUNDS OF CHEESE FOR SCHOOL LUNCH

The Department of Agriculture continues to hold up 150,000 pounds of mozzarella cheese processed from non-fat dry milk and destined for the school lunch program. The cheese contains minute aluminum filings and USDA has asked the Food and Drug Administration to review the situation for the second time after USDA released the cheese the first time stating that there was no health problem. Some of the cheese was ordered destroyed—45 of the 800 cases—and the rest released after the first hold order from the FDA.

According to Food Chemical News which reported on the incident, USDA is now considering whether it should set higher defect action levels for product going to the school programs than those set by FDA for food in regular commerce. The impact of any such USDA action could be staggering. In the past, USDA has relied on FDA for health matters.

IMPROVED SCHOOL FOOD SERVICE AUDITING THROUGH AIMS MOVES FORWARD

Even before the USDA proposes its regulations under the so-called AIMS Program (Between the Lines, Vol. 2, No. 21), the Department is moving to provide funds to the states to beef up state agencies staffs for "improving school nutrition program mangement." On September 14, USDA published an interim rule and request for comments in the Federal Register on the allocation of discretionary funds to the states for the stated purpose of implementing the yet to be announced AIMS program. Single copies of the proposal are available from the NFFA Washington, D.C. Government Relations Office.

[From the Cheese Reporter, Sept. 21, 1979]

MOZZARELLA CHEESE IS A USDA/FDA PROBLEM

WASHINGTON.—The Dairy Industry Newsletter reported last week that Food and Nutrition Service officials say they still do not know what action to take on 150,000 pounds of mozzarella cheese which was destined for the School Lunch Program but contains aluminum filings.

The reason for the confusion is that the Food and Drug Administration "did not establish levels" on contamination that can be allowed in food for the School Lunch Program, a spokesman was quoted as saying.

FDA officials say that 45 of 800 cases of the carlot of cheese will be destroyed, according to reports received by the Newsletter. USDA had found the minute aluminum filings in one carlot of 33,000 pounds. The product was made from nonfat dry milk USDA had supplied to the firm, the Cheese Corporation of America, Amsterdam, N.Y., which produced the cheese under contract for the Department.

According to another report, the Newsletter said, it is unclear who owns the cheese. Apparently, USDA paid for two of the lots but not the others. Now USDA is faced with the problem of whether it should set standards higher than those set by FDA for food in regular commerce, it was stated.

Mr. IRELAND. The next witness is Mr. Stanley Feldman, chairman of the Committee on School Lunch Programs, National Association of Meat Purveyors.

Good morning.

TESTIMONY OF STANLEY O. FELDMAN, CHAIRMAN, SCHOOL LUNCH COMMITTEE, NATIONAL ASSOCIATION OF MEAT PURVEYORS

Mr. FELDMAN. Mr. Chairman, my name is Stanley Feldman. I am chairman of the School Lunch Committee of the National Association of Meat Purveyors. If you don't mind, I will refer to them as NAMP from now. It's a lot quicker and easier.

Mr. IRELAND. That's fine.

Mr. FELDMAN. NAMP's approximately 400 member companies are almost all small businesses. All them process and/or distribute meat and meat products to the food service industry, including hotels, restaurants, hospitals, clubs, and schools.

Since more than 45 percent of all the meat consumed in this country is eaten away from home, NAMP members are a vital link in the distribution system. NAMP appreciates the opportunity to share with you our thoughts on the role of small business in the purchase and distribution of commodities by the U.S. Department of Agriculture to the national school lunch and other food programs.

As an aside, and from what I heard this morning, I would like to tell you how I feel about 80 percent cash and 20 percent commodities and how it applies to the meat business. Meat is a main item in the meal and all the schools want meat. Consequently, what happens is that many, many of the food dollars are spent on meats so I would like to tell this committee that the reverse is the case: It is 20 percent cash and 80 percent commodities, as it applies to meats. Some say that in the 80/20 rule milk is included and as a matter of fact if you include milk in it I think the figures are closer to 60/40—60 cash and 40 percent commodities.

Again, as it applies to meat, I think it is 20 percent cash and 80 percent commodities. We can only speak of how the present commodity system impacts on meat and more specifically, ground beef purchases. From what we have observed with respect to this product, NAMP believes that the present commodity purchase and distribution system not only works to the detriment of small business but also, and more importantly, does not benefit local school districts which are the recipients of the donated commodities.

NAMP's concerns about the commodity distribution system are a matter of record. The association has submitted statements to the House Committee on Education and Labor urging that the present commodity system be replaced with a system of total cash distribution or, in the alternative, the distribution of commodity vouchers or letters of credit which could be exchanged for products by local school districts.

There are some specific problems with which the USDA purchases ground beef for the commodity program, problems which make it virtually impossible for small businesses such as those who are members of NAMP to participate in the program. For example: USDA buys only in carload lots, a volume requirement which makes participation in the bidding process difficult for the small purveyor.

In addition, the requirement to supply frozen ground beef in 55-pound packages is also an inhibiting factor since this is not the way ground beef or hamburger is normally supplied by the purveyor to his institutional customers.

It should be noted, as well, that supplying ground beef to a school district in a frozen 55-pound package requires that the district thaw and further process the product, adding to the ultimate cost and creating additional opportunities for spoilage.

Further, the Agriculture Department requires that the ground beef which it purchases must be certified, a term which means that a USDA grader paid for by the business using his services must indicate that the product was derived directly from the grade of cattle indicated in the bid requirement. This expense which currently runs about $20 an hour virtually guarantees that ground beef for commodity purchases will be produced only by an integrated establishment, that is, those which slaughter, bone, and grind.

As an aside to that, Mr. Chairman, perhaps it would be well for me to tell you the difference between an inspector and a grader and how the USDA uses them. The inspector is mainly concerned with labeling and wholesomeness in the plant. A grader is involved in quality. That is, he examines the animals and puts a grade on it: Choice, Prime, Good, whatsoever. That costs the plant approximately $20 an hour for those services.

The inspector, or the wholesomeness side, does not cost the plant. USDA pays for it. The taxpayer pays for it.

Certification requires a grader to come in and certify that these products are within the quality controls of the Federal standards. Incidentally, one of the previous speakers was asked a question about microbiotic controls. There are none in the USDA system. The quality control system is simply involved in visual examinations by the grader and fat content and not in microbiology which, incidentally, many plants have their own quality control system which includes these things.

Some of these bigger companies who are in this integrated system need a grader on their premises anyway. Consequently, they have that grader there to certify ground beef within the commodity purchase program. He may be there primarily for other duties, however. For a small purveyor to participate in this process he must buy bone-in product; go to the expense of having it boned on his premises; then have it certified at the stated cost of approximately $20 an hour for a grader's time.

In the alternative the purveyor can buy a boneless product but he must also have it certified again on his premises as it was when it was boned. Certified twice. These attendant costs of certification make it virtually impossible for the small purveyor to participate.

My company, approximately 10 years ago, did 17 carloads of ground beef for the school lunch program. We did it one time. One time only. We never did it again. Some of the things that we ran across were, well, we had a multistory operation. We had grinding in the basement. We had boning on the first floor and we ordered our grader to come in and certify our program.

When we were boning on the first floor we transferred the product to the basement to grind it and he stopped the operation there and we said: "What's going on?" He said: "Well, I have to go to the basement to certify the grinding operation." We said: "You just certified the product in the boning of it, why do you have to go down there?" He said: "Well, that's part of the process."

So, consequently, we wound up with two graders. One on each floor to certify the product and the expense and the redtape got so difficult for us that we were awfully glad to get through the 17 cars and we never did it again.

NAMP recommends that the USDA carefully review its certification requirements to see whether they can be supplied to open up the bidding process. For example USDA's meat quality division which supplies graders to requesting establishments has conducted a pilot project at a Midwestern meatpacking plant in which product which must be certified for export is certified by means of a sampling process rather than a review of every item coming off the production line.

The successful results in terms of quality assurance have also reduced costs by about 75 percent. Such a dramatic reduction, coupled with other reforms might make it possible for small purveyors to participate in USDA's ground beef procurement.

The increase in competition would undoubtedly assure USDA of a better price for the products to purchase.

Another comment: If for no other reason but to save freight, storage, and handling by more local companies participating rather than just a few who ship all over the country. In addition, the manner in which USDA writes its specifications for ground beef purchase also discriminates against the small purveyor. A case in point is the interim Federal specification: Ground beef products, frozen—which was released without advance notice on July 15, 1980, along with the announcement that it would be immediately utilized in future procurements of ground beef for the national school lunch program, this despite the fact that at the time it was released USDA also asked for comments on its contents.

Despite the fact that comments have been sitting at the USDA since late last summer, the Department has made no moves to change the interim spec's and it now appears that the request for comment was a sham. The reasons behind the single Federal specifications are laudatory. In the July 15, 1980, letter to NAMP's president, John M. Wyatt, director of USDA's food quality assurance division, noted that 14 specifications including 8 institutional meat purchase specifications, 4 USDA schedules, 1 military specification, 1 Federal specification, were available to Federal purchasers of this food item.

Wyatt wrote,

> Since ground beef represents the largest dollar procurement of any food item by the Federal agencies, it is appropriate for this item to have one Federal standardization document—in this case a Federal specification which will be used on a Government-wide basis.

Conceptually, Commander Wyatt makes sense. However, the specification which was produced by an unidentified task force of Government users who met without public notice or comment, is oriented toward slaughterers, packers, and boners, the same group which as we have indicated have historically been the best equipped to meet USDA's cumbersome and complex ground beef requirements.

Apparently no thought was given to broadening the base of participation which would hopefully lead to lower prices being paid by the Government for this important food item.

In addition, this interim Federal specification seems to fly in the face of a recommendation by the U.S. General Accounting Office which concluded in the study of Defense Department procurement in 1977 that DOD and the entire Federal Government procurement process should make wider use of commercially available products rather than insisting on special Federal specifications.

Mr. Chairman, NAMP believes that significant changes in USDA's commodity processing and distribution process are required in order to permit more small businesses to participate. As we said at the outset: Such participation would not only be good for small business, it would be good for the school districts which are the recipients of the USDA donated commodities and in the long run it will also be good for the schoolchildren who eat their lunches in participating cafeterias and lunchrooms.

At a time when budget considerations are paramount and extremely difficult decisions must be made, especially ones which affect our schoolchildren, why not ease the pain by saving money with a more efficient system rather than perpetuating an antiquated commodity system.

Thank you very much.

Mr. IRELAND. Thank you, Mr. Feldman. I am intrigued by the description of Commander Wyatt and his program of a single specification. What have they told you about the unidentified task force of Government users who met without public notice or comment? When did that occur?

Mr. FELDMAN. That would be difficult to tell, exactly.

Mr. IRELAND. I understand that. When did you begin?

Mr. FELDMAN. Let me say this: We monitor, as an association, what happens at the USDA. When we were keeping our ear to the ground and we heard that things were beginning to happen, we always, always offer our services to help in anything that is written and rarely—if ever—are we asked to participate.

I'll give you some past examples: The schools in past years said they would like to get some ground beef patties rather than the bulk ground beef that they had to further process because, after all, it is a pattie that goes into a hamburger sandwich and not a hunk of ground beef.

The USDA said they were going to write specifications for the patties. We asked to participate. We were not invited to participate and they proceeded to write spec's for patties. After we got the spec's we wrote them and told them: These spec's will not work. What is ground beef is ground beef and what is patties is patties and they are not exactly the same—some of which had some added soya, a protein—equivalent, however, in nutritional value.

They went ahead and didn't listen and did whatever they wanted to do and they bought a lot of patties and they sent them to the schools and they couldn't chew them. They could use them for shoe soles rather than for hamburger patties. But they wouldn't listen to us. Then they decided they wanted to get into precooked patties which was an even better, easier item for the schools to use. Incidentally, it takes them 1 or 1½ years to ultimately write these spec's which any astute businessman could write probably in about 2 hours time, I suppose. But it takes them 1 or 1½ years to do it. Then they got into cooked patties and we knew this was happening and we asked to participate in what to be used in cooked patties. Now, when you cook patties a lot of things happen that don't happen in ground beef or even in regular hamburger patties. We were never invited to participate but there were certain selected few people who were invited to participate and consequently they wound up with a cooked pattie that was terrible. The schools couldn't use it. A lot of stuff was wasted and thrown away.

But, no, I cannot answer you as to when these things happened because we are not privy in most cases to being invited to participate.

Mr. IRELAND. We have heard, in addition to your testimony, so much about this 55-pound requirement for meat that only the USDA has.

People simply do not use the 55-pound frozen blocks of beef. So, as you say, the same people are profiting from that as before. This would suggest that the USDA should be running a red flag up there. This is the kind of thing that people profit from. Do you think that this is sufficiently profitable for the companies or is ignorance a factor or is somebody getting a payoff under the table or what? It is just so totally absurd.

Mr. FELDMAN. I wouldn't preclude a payoff. I would preclude that, well, there are a lot of things that are, well, first of all many of the spec's are a case of overkill as far as I am concerned. The fact that you, in any court of law, are believed innocent until proved guilty, many of the Government spec's take the other tack: You are guilty before you have a chance to prove your innocence.

Mr. **Ireland**. That's correct.

Mr. **Feldman**. So they consequently write spec's that make it so difficult that only a few can somehow wade through them and understand them and participate in them.

The ground beef commodity program traditionally, for years, has belonged to a certain few and really what it amounts to is this: They kill cows, which is what goes into the ground beef, by the thousands. They go through their coolers and I am not going to say that what goes into the school lunch program is not wholesome, but it is not a trade-ready product. It wouldn't go to other sources.

Consequently, they have these animals on their premises which are boned and going into the ground beef program. Nothing wrong with them. Don't misunderstand me. Except they may have some scuffs or some scrubs or when they pull the hides some certain imperfections that would normally not allow that carcass to go into the general trade area and they have these at the slaughtering plant and they are used in many cases.

In some cases they have contract where they have to use regular merchandise but it is a source for them to use these particular products. Those of us who are not in that end of the business don't have a chance at it. We don't have a chance to buy them or get involved in it.

I really don't think there is corruption. I don't think there is any payoffs or any of that thing. I just think it is geared to the big business operator who can handle it where the little guy cannot. I really think that is the case. Why 55 pounds, I couldn't begin to tell you the answer. We either sold it in 5-pound bags or 10-pound bags.

Mr. **Ireland**. The fact that they ignore what the commercial world is doing leads one to believe that they must have some justification. I suppose it may be as bad to be stupid as it is to be crooked.

Mr. **Feldman**. I suppose.

Mr. **Ireland**. It is a sad commentary.

Mr. **Feldman**. In America, as great as we are, we have a lot of areas that we are not good at but in the food distribution system, the present food distribution system in the United States, we are far and away above any other country in the world. No one even comes close to us.

I had an opportunity to do some work in Egypt. They asked me to just look back to what we did 25 years ago, and that's good enough for them. So why do we take this wonderful, efficient, enormous distribution system that we have—better than any other distribution system in the world—and bypass it? I don't understand it.

Mr. **Ireland**. Do you think that the situation is getting worse or getting better?

Mr. **Feldman**. I have to say that the USDA has done a remarkable job of getting their act together over the last 2 or 3 years because of the pressure on them. They are far from there, but they are a lot better than they were. They come closer to the needs of the schools than they did before but I think they finally realized they had better get their act together because otherwise the public opinion alone would take this gem from them.

Mr. **Ireland**. That is right.

Mr. **Feldman**. They are better than they were.

Mr. **Ireland**. Questions, Mr. Topping?

Mr. **Topping**. Do you think we need to have a voucher system or all cash system or do you believe that we can accomplish our goals and help small business by requiring the Department of Agriculture to use guidelines in its procurement that would assure the small business would get an equitable opportunity in the procurement?

Mr. **Feldman**. I would, if our association could opt for anything, we would opt for total cash simply because in my opinion it is much easier to move cash around than it is to move commodities around.

Mr. **Topping**. Storage is easier?

Mr. **Feldman**. It would make sense. And if they are willing to give whatever the percentage of cash is and they allow the professionals at the school level to spend their money, why can't they spend it all?

To me it just makes a lot more sense to have all cash. It may not make certain elements in the country happy, in the agricultural sector, who would like to have certain products moved at a certain time, but from my knowledge—and I have studied this quite extensively—surpluses in this country, which was the original intent of the commodity program—surpluses are mainly not existent anymore.

Mr. **Topping**. But in the provision of cash, could they not set up guidelines in cash that would still discriminate against the small businessman? Do we need to have any guidelines whereby they would give equitable treatment to the small businessman, whether it was cash or on the present system?

Mr. **Feldman**. I would think that cash or a voucher system, either one—the voucher system or a letter of credit being the same as cash—would allow these people to participate locally and would get the small businessman more involved with all the rigorous specifications. Yes.

Mr. **Topping**. One more question, Mr. Chairman, if you will? You mentioned the 55-pound block. Is it true that these 55-pound cases or blocks come in four cartons of about 14 pounds each or something like that?

Mr. **Feldman**. No; it is not one solid mass of 55 pounds. What it is, is four wrapped or bagged ones within a box and the last one, well, the first three are put in arbitrarily at random weights and the last one that is put in brings it to the equal 55-pound weight.

Mr. **Topping**. But they are smaller packages?

Mr. **Feldman**. Yes, they are, well, they could be 10, 12, 15, 16 or whatever it is and the last one makes it an even weight, a 55-pound box.

Mr. **Ireland**. Then there is a problem about the mixed weights, also.

Mr. **Feldman**. Well, you see, when you are in a restaurant and you are going to make chile or meatloaf or what have you, you usually say: I want three parts of this and four parts of that. But if you are going to have three tins of something to make a batch of chile is one thing but if you have three wrappers full of something—it may be 2 pounds or 3 pounds over or 2 pounds short.

Mr. **Topping**. It is 55 pounds?

Mr. **Ireland**. The problem is, not only is it frozen, but it is also an odd size. That is just as much a problem to work with as the fact that it is frozen.

Mr. Feldman, thank you. Any other questions?

Mr. **Lynch**. The complaint we have also heard is that because it is all delivered frozen you have to unfreeze everything to use it, even though you might want just a small amount.

Mr. **Feldman**. Obviously, if you want to buy locally and you need 50 pounds to do something, you get 50 pounds the day before.

Mr. **Lynch**. Not frozen and you get it right away. Thank you.

Mr. **Ireland**. Thank you for striking a blow for the beleaguered American taxpayer.

Mr. Donald Liebich of Sysco Frosted Foods, Albany, N.Y.

TESTIMONY OF DONALD H. LIEBICH, PRESIDENT, SYSCO FROSTED FOODS, INC. AND PRESIDENT, NEW YORK STATE FOOD DISTRIBUTORS ASSOCIATION

Mr. **Liebich**. Good morning, Mr. Chairman. I am Donald Liebich of Albany, N.Y., and I am president of Sysco Frosted Foods, Inc., which is a food service distributor servicing the Greater Albany, N.Y., area. We supply food and food-related products to so-called institutional customers such as restaurants, hospitals, hotels, and schools.

I am also president of the New York State Food Service Distributors Association. The membership of this organization is made up of food service distributors doing business in the State of New York. Many of our members are small, privately held business enterprises. Forty percent of our members have gross sales of under $5 million.

I would like to discuss with you today three areas related to the school lunch program and the USDA donated commodities program and its impact on our membership. These areas are, one, the importance of the school lunch business to our members and particularly to our smaller members; two, the ability of the local food service distributor to provide superior service to the lunch operations than is available through the donated commodities program; and, three, the negative impact of and the financial hardship created by the current USDA donated commodities program.

The first point you should be aware of is that the school lunch business is important to all of our members but particularly to our smaller members. Many of the smaller members do not have large sales staffs and rely on the school bid business which can be done without the benefit of a large sales staff.

In addition, this business is utilized to fill up unused capacity. When a delivery vehicle delivers in a geographic area and it is not fully utilized, school lunch business is often the method utilized to fully use the equipment. For this reason this market is important to the profitability of the independent food service distributor.

When the USDA donated commodity program comes into the picture, the distributor is often the odd-man-out. This is true despite the fact that the food service distributor, the normal vehicle for servicing this market, is in a position to provide the services required by the school food service market.

The food service distributor offers short leadtimes from order to delivery. School lunch directors can place their orders today and receive delivery tomorrow. The product handling process is simple and direct from processor to distributor to user. The school lunch programs do not, therefore, have to maintain large inventories. As we have heard, the donated commodity program has a much more complex distribution with longer leadtimes and requires excessive inventories.

The food service distributor offers a broad range of product availability designed to meet the needs of the many varying school lunch programs. For those with available labor, product can be purchased in a relatively unprocessed state, for example, whole turkeys. Those programs which do not have available labor can purchase further processed products—for example—turkey rolls. This choice of products can contribute substantially to the overall productivity of the school lunch program.

As I mentioned previously, food service distributors often use the school lunch business to fully utilize their fixed assets. Because of this, the pricing in this market can be very competitive. In my experience, and I am speaking of the Albany market, a markup of 7 to 10 percent is often required in order to be competitive in this market. This equates to a markup of $1 to maybe $1.50 a case.

The cost involved in the distribution of donated commodities, as we have heard, are considerably higher. In one area of New York State, school districts are charged even an additional dollar per case over and above their normal distribution charges, if they are unable to pick up the entire allocation of a commodity on a specified day. Obviously the inefficient distribution system utilized for donated commodities is costing the taxpayers unnecessary money.

In addition to the unnecessary adverse impact on the school food service program and cost to the taxpayer, the donated commodity system disrupts the ability of the food service distributor to handle his distribution to the school lunch market and thereby creates a major financial hardship.

Most schools issue requests for bids in July and August for September through December deliveries. These requests for bids occur during the middle of the growing and processing seasons of many major commodities and before the new market prices are known. In order to protect the price committed to on the bid, the food service distributor must often purchase and inventory the product bid.

Because of the uncertainties involved and the availability of donated commodities, the quantities called for on the bids are often not adhered to by the school districts. This leaves the distributor with substantially excessive inventories on many commodities.

For the small distributor who does not have easy access to capital, this excess inventory investment can be a serious financial hardship. Because of the difficulties experienced in effectively distributing USDA donated commodities, the State of New York is actively considering expanding its supply support distribution system to include public schools.

The supply support distribution system in New York State was established several years ago to provide food distribution services to State health care institutions. Changes in the way that patients in these institutions are handled has substantially reduced the need for this service and resulted in excess capacity.

The commodity distribution managers of New York State recognize that the current system for getting donated commodities to the ultimate consumer are cumbersome and expensive. This is despite the fact that New York State probably does one of the best jobs in this area of any State.

The solution to this problem is to expand the authority of supply support systems to include distribution of all food commodities to the public schools. We therefore have a situation where in order to solve the problems created by the operation of the donated commodities system, the New York State government is going in direct competition with the food service distributors.

For many of our members this development would have disastrous results by eliminating as much as 25 percent of their business. It would also have disastrous results for the school lunch programs, as it would eliminate all of the competition in this area.

In summary, the USDA donated commodities program does not as effectively meet the service requirements of school food service programs, as do local food service distributors. The distribution system used to handle these commodities is cumbersome and inefficient and because of this encourages the growth of Government distribution systems in direct competition with local food service distributors.

The uncertainties caused by the donated commodities systems result in financial hardship for distributors, particularly small distributors. I firmly believe that there must be a better way to achieve the objectives of school lunch and commodity removal programs without the wasteful and counterproductive aspects of the current system.

Thank you. I would be happy to answer any questions you might have.

Mr. IRELAND. Thank you, Mr. Liebich.

Let's use the 55-pound meat distribution example. Is the USDA getting any better than this, at this? Or do you think that the solution is to not try to improve the unsound system of the USDA but just get them totally out of the business?

Mr. LIEBICH. I would agree with what Mr. Feldman said. I believe the USDA is doing a better job today than they were 10 years ago, because of the focus that has been on them and the fact that they recognize that they absolutely have to do a better job. I don't believe that we can make silk out of a pig's ear. The system, basically, is inefficient. It doesn't use the distribution system that is in place. It gets Government bureaucracy involved in areas that it doesn't need to be involved in and I think that if we are going to make the system work to the benefit of the school lunch programs, in the manner that was envisioned when we first started the school lunch programs, we have to go to some sort of a cash program or commodity letter of credit or something in a way that allows us to move paper and numbers rather than product around the country.

Mr. IRELAND. It occurs to me that what we will hear from USDA is that: "Everybody says we are doing a better job." It seems to me that the important thing here is what is the use of doing a better job if you shouldn't be doing it in the first place.

Mr. LIEBICH. That's right.

Mr. IRELAND. I guess that's what you are saying in your example. I found your example of what is about to happen or beginning to happen in New York scary if nothing else, and I am afraid we are going to see more and more of that unless we do something about it.

What we have is bureaucrats talking to bureaucrats and it is bad enough when they are talking to the rest of us.

Mr. Weber, welcome. Glad you are here.

Mr. WEBER of Ohio. I have no questions but I do want to say that I am very interested in this issue and I do intend to read thoroughly the testimony that I have missed this morning and I had an unavoidable conflict unfortunately but I find it to be extremely interesting.

Mr. IRELAND. We understand the problem you had.

Mr. WEBER of Ohio. Thank you for being here.

Mr. IRELAND. Mr. Lynch has a question.

Mr. LYNCH. If the system was changed and became cash and/or a voucher system, would that end the problem that is being created in New York State now, for the food distributors?

Mr. LIEBICH. Yes, in terms of supplies provided we get it in place sort of like Mr. Chiara's example, before we are out of business. I think that would solve the problem because the normal distribution channels would be used and all of the problems that they are trying to solve in the bureaucratic manner would be solved in another manner.

Mr. LYNCH. Would you echo the testimony of earlier witnesses about payment problems, on occasion, with school districts—in some cases because they are not paid by USDA or in other cases where they cancel a contract at the last minute because they receive commodities. Is that occurring in your areas as well?

Mr. LIEBICH. Yes. I would echo the previous testimony in that the payment problem is better today. It is not good but it is better today than it was several years ago. We experience, our own company experiences the kind of inventory dislocations that were talked about.

Four years ago we had a problem with tomatoes, where there was a shortage of tomatoes on the west coast and in order to protect the price that we had bid to a number of school service operations, we had to purchase the product and bring it into our warehouse.

USDA is not known for looking at the availability of product when they make a purchase and they purchase the same product and distribute them direct to the schools and we ended up with several railcars of products sitting in our inventory for several months while the schools used up this donated product.

Mr. **Lynch**. My final question is on USDA in general. Do you feel it is a matter of across-the-board procurement requirements?

It is a matter of our needing to change the whole system because then even if you get by those two instances then you get into what the other witness was talking about—specifications. And then as Mr. Chiara was saying, it seems every step of the road you then run into another roadblock. Do we need an across-the-board change as opposed to changing maybe just a few of the requirements?

Mr. **Liebich**. My belief is that we need an across-the-board change. We need, in our business, in any business, the person that is most qualified to vote on what the best distribution system is, is the customer. I service my customer in the most efficient manner, then he or she will spend their dollars with me and both of us will prosper.

I think we need to get the dollars to the customer and let them vote on what the most efficient distribution system is.

Mr. **Lynch**. Thank you, very much.

Mr. **Ireland**. Mr. Topping?

Mr. **Topping**. It is alleged by some in the rural area that if the Agriculture Department, well, do you feel that small business and private enterprise could supply the need of the rural areas as well as the metropolitan areas?

Mr. **Liebich**. Absolutely.

Mr. **Topping**. Is your membership sufficiently diverse so it could do that?

Mr. **Liebich**. We run all the way from large distributors in Metropolitan New York to Addis Food Service in Evansmills, N.Y., which is equipped to cover the north country of New York which is as rural an area as you can get. I believe we are not unique in New York. There are restaurants, there are schools that are buying some of their requirements today from food service distributors.

Our membership is equipped to handle the other 20 percent as well as the 80 percent that they are handling today.

Mr. **Ireland**. Thank you, Mr. Liebich. We are delighted with your testimony.

Mr. **Liebich**. Thank you.

Mr. **Ireland**. We will now adjourn until May 13, or subject to call of the Chair.

Thank you very much.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

USDA'S COMMODITY PROCUREMENT PROCESS

WEDNESDAY, MAY 13, 1981

House of Representatives,
Subcommittee on Export Opportunities
and Special Small Business Problems,
Committee on Small Business,
Washington, D.C.

The subcommittee met pursuant to notice, at 9:30 a.m., in room 2359-A, Rayburn House Office Building, Hon. Andy Ireland (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN IRELAND

Mr. Ireland. Good morning, ladies and gentlemen, we are delighted to have you here. This morning our subcommittee meets for the third time on the subject of the role of small business in the Department of Agriculture's commodity procurement process.

Today we have a number of witnesses who will appear and present testimony which is basically favorable to the current commodity procurement program for various reasons. However, before we begin, I believe I should reiterate some of my thoughts for the record. Due to various reports, it appears the mission of the subcommittee is unclear to many people.

We are not, I repeat, not here to call for an end to the commodity program. We are not, and I repeat, not here to call for the end of the school lunch program or other USDA programs, contrary to some reports you may have heard.

What we are here for is to ascertain whether or not small business has the opportunity to participate and/or fairly compete in the USDA commodity procurement process. From what I have heard so far, I question whether small business can. In that regard, I believe because they apparently cannot, there is a lot of inefficiency and waste in the present system.

I'm glad to have this opportunity to say what the goal of the subcommittee is and I think that will be useful to the witnesses this morning.

The gentleman from Texas, do you have a comment this morning?

Mr. Stenholm. No.

Mr. Ireland. Before we get started I'd like for the record to put in a statement that we received from the Florida Fruit & Vegetable Association. So without objection we will put that in the record.

[The information referred to follows:]

PREPARED STATEMENT OF JOHN HIMMELBERG, WASHINGTON COUNSEL, FLORIDA FRUIT & VEGETABLE ASSOCIATION ON THE USDA COMMODITY PROCUREMENT PROGRAM

Mr. Chairman, thank you for giving us the opportunity to share our views with this Committee.

My name is John Himmelberg. As Washington Counsel for the Florida Fruit & Vegetable Association (FFVA) I have been authorized to present its views before this Committee. For those members of the Committee who may not be as familiar with our Association as you are, Mr. Chairman, let me introduce ourselves.

FFVA is a non-profit agricultural trade association of fresh fruit and vegetable growers and shippers. Our members grow and ship a substantial volume of all fresh fruits and vegetables grown in Florida. Florida ranks eleventh nationally and first in the Southeast in agricultural sales. The value of Florida's agricultural exports was over 515 million dollars in 1979, creating 14,000 related jobs. And in 1979 receipts from farm marketing totaled 3.9 billion dollars. Florida's agricultural industry in 1979 contributed in excess of 12 billion dollars to Florida's economy.

Florida's 35,000 farm operators lead the nation in the production of 15 commodities, raise 34 commodities with annual sales in excess of 5 million dollars each, and seven crops with receipts in excess of 100 million dollars each. Florida agriculture also provides employment for one in five civilian workers in the State. In 1979, the vegetable growers alone realized close to 800 million dollars in receipts.

The Committee's notice for these hearings on the role of small business in the United States Department of Agriculture's commodity procurement process states that the Committee will focus on "whether or not small business is allowed to actively and fairly participate and compete in the procurement process."

FFVA does not see the USDA Commodity Program (Program) competing with the private sector or foreclosing opportunities for the small businessman. Indeed, we see it the exact opposite. With 80 percent of the food served in the Program purchased at the local level, and 20 percent purchased through USDA, the commodity Program supports both the farmer and the small businessman.

Mr. Chairman, members of our Association are small businessmen of the first order—farmers—and they believe strongly in the value of the Department's procurement policies and the goal of the National School Lunch Act: ". . . to encourage the domestic consumption of nutritious agricultural commodities. . . ." (Section 2, Public Law 79-396, 60 Stat. 230, June 4, 1946).

FFVA therefore strongly supports the USDA Commodity Program. We are aware that there are some problems in the program such as those outlined by the Committee in its notice for these hearings. We also are aware, however, that USDA is aware of these problems and has begun action to address them and thereby improve the program.

The commodity distribution program has met the test of time. It has served well the agricultural community and our Nation's children. It has also provided small businessmen with a real opportunity to participate in the Program. To meet the criticisms that have been raised we need Program improvement at USDA, not a dismantling of the Program.

H.R. 3077 introduced by Mr. Goodling and Mr. Ford would have a grave effect on our ability to move "fresh" produce into school feeding programs in the Southeast and other regions. Moreover, it is our opinion that states and schools would not always be able to find "local" vendors who can provide fresh commodities. The private food system of the United States simply does not supply "all things to all people" and will only supply commodities that are the most profitable for vendors to handle, not commodities that are plentiful and, therefore, less costly.

For the past several years, the Association has worked closely with USDA officials to enable some of our abundant "fresh" vegetables to find their way into school lunch programs in a form acceptable to school officials and, most importantly, to the students. All such efforts, in our opinion, will be nullified if legislation such as H.R. 3077 becomes law.

Recently, Association members were involved in a USDA commodity surplus removal program for carrots. Nine hundred thousand pounds of surplus carrots were processed into carrot sticks and delivered to several states in the Southeast. The program so far is most acceptable to both school officials and students. Carrot sticks are being eaten by students who heretofore would not have eaten "plain" carrots. School officials are especially enthusiastic about this program. Many had eliminated carrots from their menus because of the expense of preparing carrots in a form acceptable to the students. Due to the success of the carrot sticks program, it is likely that such a program will expand to other "fresh" surplus commodities in the future.

In addition to carrots, our members are busy preparing other commodities such as oranges, celery and cabbage for the school feeding programs through the capable administration of professional USDA personnel who know and understand the problems associated with getting "fresh" commodities to our school food programs in a timely fashion and in a form acceptable to the school food authorities and students.

We believe the proposed letter of credit would so complicate the commodity programs that the costs involved would exceed those of the present system and eventually would result in a total "cash out" of the commodity program.

As you know, from time to time, farmers cannot obtain a fair return for their commodities and, indeed, are forced to sell below what it costs them to produce the commodity. Without USDA's surplus commodity program together with other support programs, many small farmers would be forced out of business.

The Commodity Program was extensively reviewed by the Committee on Education and Labor in the 96th Congress. As a result of said debate, Public Law 96-528 was enacted only a few months ago dealing with the very issues raised by this Committee.

The Act appropriated $2 million for a 3-year pilot project study to compare: all cash assistance, the letter of credit system, and the present commodity program.

FFVA respectfully submits that the pilot study be permitted to go forward and its results analyzed before any action is taken on any proposals to amend the Program.

In summary, we suggest that the problems small businessmen may experience with USDA practices may be dealt with more appropriately at the administrative level in particular. We note that the organization representing those who work directly in the school food programs, the American School Food Service Association, supports the Commodity Program.

We don't need a new program; together we can make this Program work.

The Association respectfully encourages this Committee to advise the Education and Labor Committee against passage of H.R. 3077 or any similar elimination of the Commodity Program.

Mr. **Ireland**. The first witnesses are from the American School Food Service Association, and if Ms. Wynn, Mr. McClellan, and Mr. Post will come forward.

As I understand it, you have a prepared statement and we would be delighted to listen to it.

PANEL CONSISTING OF JANE WYNN, WILLIAM E. McCLELLAN, EDWARD J. POST, AND MARSHALL MATZ, ON BEHALF OF AMERICAN SCHOOL FOOD SERVICE ASSOCIATION

TESTIMONY OF JANE WYNN, NATIONAL LEGISLATIVE CHAIRMAN, BROWARD COUNTY, FLA.

Ms. **Wynn**. Thank you very much, Congressman. To my left is Mr. Ed Post, director of Food and Nutrition Services from the State of Wisconsin. To my right is William McClellan, director of Food Service in Florida, and Mr. Matz of Barnett, Alagia & Carey.

The American School Food Service Association appreciates this opportunity to appear before the Committee on Small Business. I believe this is the first time we have appeared before this committee, and I would like to introduce ourselves.

The American School Food Service Association is a nonprofit organization of 65,000 persons, mostly public employees, who help plan, prepare and serve lunches under the national school lunch program. Currently approximately 27 million students in 94,000 schools across the Nation participate in this program. As representatives of ASFSA we are pleased to present its position on the USDA commodity program.

The issue before the committee is whether or not small business is allowed to actively and fairly participate in the program. It would seem to our layman's eye that the school lunch program responds well to small business. Approximately 80-percent of the food served in the school lunch program is purchased locally, with only 20 percent of the food served in the school lunch program being purchased centrally by the Department of Agriculture—in effect, an 80-percent set-aside for local business.

ASFSA cannot, of course, be viewed as experts on the very complex problems small businesses face today in the private sector. But we do have considerable experience with the school lunch program and the USDA commodity program that may be of assistance to the committee.

The USDA commodity program has been a part of the national school lunch program since enactment of the program in 1946. Section 2 of the National School Lunch Act states:

> It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities * * *.

Yet each time the commodity program comes under review one of the first challenges is establishing what criteria to use in evaluating the program. As the declaration of policy makes clean, the school lunch program is intended to accomplish more than one goal; and any program designed to accomplish more than one goal must continually address and resolve any conflicts between these goals.

The American School Food Service Association supports the USDA commodity program; we do not favor a "cash out" of commodities or a letter of credit concept at this time. We support the commodity program because we believe it is in the best interests of the school lunch program and the 27 million children that rely on the program for a nutritious meal. It is also in the best interests of those individuals that rely on the supplemental commodity program and the family commodity program.

This is not to say, however, that we are unaware of the shortcomings of the program as outlined by the committee and previous witnesses. USDA must improve its effort to deliver USDA commodities to schools when schools need them, in the quantities schools use them, and and packaged in a way that allows schools to optimize their utility. No less than three agencies within the Department of Agriculture are involved in the USDA commodity program: FNS, FSQS, and ASCS. While some of these agencies are sensitive to the needs of local schools and treat them as customers, other agencies within the Department are less responsive. ASFSA recently met with Secretary Block and Assistant Secretary-designate Mary Jarratt to discuss improvements needed in the commodity program.

Mr. Edward Post was chairman of our task force on commodities. I would like to ask him to comment at this time.

TESTIMONY OF EDWARD J. POST, DIRECTOR, FOOD AND NUTRITION SERVICES, WISCONSIN

Mr. POST. Mr. Chairman, the American School Food Service Association appointed a special blue ribbon committee to study the usage of the commodities and try to identify problems within the commodity program. The study has been conducted and a report has been issued. I have the report with me. I would like to point out that about 92 percent of USDA commodities were acceptable to the local schools and were accepted. We have identified, however, 10 problem areas. They deal with quantity, quality and specifications and communications. But we believe that these areas can be solved administratively and will strengthen the program dramatically.

I would like to ask your permission to make this report a part of the testimony. While we did not specifically address the issue of small business or large businesses, we believe the report when further studied, and interpreted, I believe, may help with that issue as well.

Mr. **Ireland**. Without objection we will put the report in the record at this point.

[The information referred to follows:]

COMMITTEE REPORT OF AMERICAN SCHOOL FOOD SERVICE ASSOCIATION, SPECIAL BLUE RIBBON STUDY

ACKNOWLEDGMENT

The Special Blue Ribbon Study Committee wishes to thank all of the people who have responded by completing the surveys for this study of the USDA Donated Food Distribution Program. Through the data and comments provided, the committee feels confident that this report will be instrumental in improving the Program, thus increasing the benefit to the user.

The Committee members are appreciative of the opportunity to serve the American School Food Service Association in this capacity.

REPORT OF THE SPECIAL BLUE RIBBON STUDY COMMITTEE

I. Introduction

A. Upon recommendation from the Legislative Committee, the American School Food Service Association (ASFSA) Executive Board approved an ad hoc committee to undertake a comprehensive study of the USDA Donated Food Distribution Program. The study was to focus primarily on the federal level of operation.

The ASFSA has taken a strong position in support of the federal Donated Food Distribution Program; a Program that preceded the National School Lunch Program by a decade and which has become synonymous with the School Lunch Program. The Association recognizes that although the Donated Food Distribution Program has contributed substantially to the success of the School Lunch Program and other federal nutrition programs, certain changes might be necessary to meet today's needs. It is therefore important to re-evaluate the USDA Donated Food Distribution Program in terms of its ability to continue to adequately serve the needs of the school food service program.

It is the purpose of the study to verify the strengths and weaknesses of the Donated Food Distribution Program, to identify problem areas and to elicit recommendations to enhance the user benefits under the program. The study comes at a time when alternative programs such as a voucher system or cash-in-lieu of commodities are being proposed.

B. *Study Committee Formation.*—President Mary Nix appointed the following members to the Special Blue Ribbon Study Committee which is equally represented by the various Sections of the Association:

Edward J. Post, Chairman; Director, Food and Nutrition Services, Dept. of Public Instruction, GEF 3, 125 So. Webster St., P.O. Box 7841, Madison, WI 53707.

Cecil Olson, Director, Food Service Branch, State Department of Education, State Office Building, Boise, Idaho 83707.

Marion Dickey, Assistant Supervisor, Boise School and Food Service 1207 Fort Street, Boise, Idaho 83702.

Nancye Perry, Manager, Food Services & Nutrition Education, Hartford Public Schools, 42 Charter Oak Avenue, Hartford, Connecticut 06106.

Howard Briggs, Director, Food Service Department, Detroit Public Schools, 5057 Woodward Avenue, Detroit, Michigan 48202.

Shirley Watkins, Director of Food Services, Memphis Public Schools, 2597 Avery Street, Memphis, Tennessee 38112.

Anna Duncan, Manager, Developmental Research School, Florida State University, West Call Street, Tallahassee, Florida 32306.

Laura Anson, High School Cafeteria Manager, Portland School District, 501 North Dixon, Portland, Oregon 97227.

Rose Marie McKinley, President, NASAFD, P.O. Box 234, Delaware City, Delaware 19706.

J. W. Chloupek, Administrator, Food Distribution Programs, Department of Public Welfare, 301 Centennial Mall South, 5th Fl., Lincoln, Nebraska 68509.

Marvin Van Hise, Coordinator, Food Distribution, State of New Jersey, Department of Agriculture, Division of Markets, Trenton, New Jersey 08625.

Jane T. Wynn, Chairman, ASFSA Legislative Committee, Program Analyst, 2457 N.E. 27th Avenue, Ft. Lauderdale, Florida 33305.

Ms. Louise Frolich, ASFSA Liaison, American School Food Service Assn., 4101 East Iliff Avenue, Denver, Colorado 80222.

Dan Wisotzkey, ASFSA Exec. Board Liaison, Chairman, State Directors Section, Executive Director, School Food/Supporting Service, State Department of Education, 201 East Colfax, Room 318, Denver, Colorado 80203.

Mary Nix, President, ASFSA, Director, School Food & Nutrition, Cobb County Board of Education, P.O. Box 1088, Marietta, Georgia 30061.

II. Committee objective

A. *Study Areas Specified.*—At its first meeting on December 6, 1980, in Newport News, Virginia, prior to the Williamsburg Five Year Focus Planning Seminar, President Mary Nix charged the committee members to objectively evaluate the USDA Donated Food Distribution Program. The committee was specifically asked to study the following program areas to identify potential problems therein and to develop sound recommendations to resolve the problems identified.

Quantity/Quality/Specifications
Selections/Refusals/Alternatives
Delivery Dates/Time Tables
Open Market Purchases
Delivery Charges

Other questions the committee was asked to consider are:

What are the USDA restrictions?

What are the recommendations from ASFSA to USDA for improving the commodity system?

What should be ASFSA's next step?

The focus of the study was to be on the federal administration level. The committee also felt, however, that there might be significant problems at the State Agency level that could prevent the Donated Food Distribution Program from operating in an effective and efficient manner. It was agreed, therefore that any problem areas associated with the State and local agency levels of operation should be included if problem areas at those levels were identified as a part of this study.

C. *Mission and Goals of a Donated Food Distribution Program "Model".*—To respond to the charge given them, the study committee felt it was necessary as a first priority, to establish the goals of an exemplary Donated Food Distribution Program. The effectiveness and thus the kinds and degree of problem severity could be more easily and accurately identified by the study.

The committee perceived the following mission and goals for an effective and responsive Program:

Mission Statement: The U.S. Department of Agriculture (USDA) Donated Food Distribution Program should efficiently and effectively interface with and complement the Child Nutrition Programs that are eligible to receive the donated food commodities procured and distributed to the States under applicable legislative authorities.

Goals: In furtherance of this mission, the USDA Donated Food Distribution Program must subscribe to the following goals. The Program must:

1. Effect the intended purposes of the Donated Food Distribution Program but foods procured thereunder for distribution to the eligible recipient agencies must be in the quantity and of the quality that schools and institutions can efficiently and effectively utilize in their food service operations.

2. Provide foods in processed forms that can be advantageously utilized by the recipient agencies.

3. Be compatible with the food procurement procedures and production processes of the participating local school systems which must purchase 70–75 percent of the foods used in their food service operations.

4. Provide for the delivery of the donated foods to the State Distributing Agencies in a timely, reliable and cost effective manner.

5. Be responsive to food preference differences between the States and ensure equitable food allocations and/or cash benefits accruing under the Program.

6. Evaluate the cost effectiveness of food procurements each year to determine if a commodity "short fall" with a resulting cash-out might be more economical and advantageous to the recipient agencies than the procurement of excessive commodities to expend 100 percent of the F. Y. Budget.

D. *USDA Donated Food Distribution Program Limitations/Regulations.*—It must be recognized that any indepth study of the USDA Food Distribution Program take into consideration the limitations and conditions placed upon it by the various legislative authorities under which food commodities are procured and made available through the Food and Nutrition Services unit of USDA for distribution to the various states.

A copy of the applicable USDA regulations, Part 250, is hereby made a part of this report to appraise the readers of the applicable legislative authorities and the regulations that promulgate the legislation. It should be emphasized that many of the authorities under which the donated foods are purchased are designed to facilitate a purpose not directly related to the school Food Service Program, i.e. surplus commodity removal and food price supports. Congressional action, of course, is necessary to effect change in legislation. See Appendix A copy of Part 250 of the Regulation.

III. Plan and schedule to expedite study

A. *(1) Blue Ribbon Study Committee Survey.*—To encourage and facilitate input from a large and representative number of persons engaged in the administration and operation to the USDA Donated Food Distribution Program, a problem identification survey instrument was developed. The instrument was designed to allow respondents to identify problem areas as perceived from their perspective and to make recommendations to help resolve such problems.

Respondents were asked to address specific areas relating to the administration of the Donated Food Distribution Program, namely: Quantity/Quality/Specifications; Selections/Refusals/Alternatives; Delivery Dates/Time Tables/Charges and Open Market Purchases. Comments were solicited on other problems not covered in the above named areas.

To allow for the development of a preliminary report to the Executive Board at their meeting in Washington, D.C. prior to the ASFSA Legislative Conference, the respondents were asked to complete and return their surveys by January 31, 1981.

(2) ASFSA Commodity Survey.—Another survey, known as the ASFSA Commodity Survey was conducted during August of 1980. The survey was coordinated by Betty Bender, Supervisor of Food Service, Dayton Public Schools, Dayton, Ohio.

The primary thrust of that survey was to obtain data relative to commodity acceptance and utilization between commodity acceptance and the size of the meal operation and to see if a relationship existed between commodity utilization and wages paid to foodservice workers. The survey also elicited information to measure user knowledge about the Donated Food Distribution Program.

The ASFSA Commodity Survey was designed to obtain commodity usage and acceptance data at the recipient agency level and to identify problem areas primarily associated with the State Agency administrative level.

In summary it was an effort to determine the relationship of the USDA Donated Food Distribution Program to succeed Child Nutrition Programs.

B. *Survey Distribution.*—All Study Committee members were requested to complete the problem identification survey. The various sectional representatives on the committee were asked to respond on behalf of the group they represent, i.e. Major Cities, District Directors/Supervisors, Single Units, State Directors/Supervisors and Commodity Distributors.

All of the State Educational Agencies were mailed a survey form and cover letter requesting their input. This mailing was considered especially important because all State Agencies were required by USDA regulation to establish a State Food Distribution Advisory Council by July 1, 1980, and to report the council's recommendations to USDA by February 15, 1981. The Advisory Councils were requested to conduct a food preference survey. The survey was to determine the most desired foods, least desired foods and recommendations of new food products. The councils were to advise the State Agency on such matters as: The amounts of each USDA food item desired; types of packaging and package sizes, shipping schedules and recommendations for changes in specifications. The committee felt that those reports could be useful to obtain input for this study.

The ASFSA Commodity Survey was mailed to 425 recipient agencies.

C. *Survey Responses.*—Responses to the Study Committee's problem identification survey were received from each of the represented groups on the Study Committee.

Additionally, twenty-two State Agencies responded. The comments generally addressed problem areas at the federal administrative level, especially the response received from the State Distributing Agencies.

The ASFSA Commodity Survey was returned by 168 respondents. The data provided dealt primarily with the allocation, acceptance, and refusal of available foods offered through the USDA Donated Food Distribution Program. The comments offered focused, for the most part, on problem areas affecting the State Agency level of administration. Most of the respondents to this survey represented the local agency "user" group.

IV. Survey responses studied

A second meeting of the Special Blue Ribbon Study Committee was held in Washington, D.C. prior to the ASFSA Legislative Conference. A preliminary report was developed, reviewed and approved at that time.

The preliminary report contained a detailed listing of the data and comments from the survey respondents which were reviewed by the committee members. The problem areas identified by the respondents were studied and prioritized.

V. Special blue ribbon study committee findings

The Study Committee findings are based on the survey responses. The committee studied the data and comments provided with the intent to develop a report that accurately reflects the problem areas of the Donated Food Distribution Program as perceived by state Agency and local administrators and users.

It was noted from the ASFSA Commodity Survey, that on the average, 91.5 percent of the quantity of donated foods offered, was accepted by the recipient agencies. A comparison study by USDA Regions on the quantity of commodities refused is as follows:

Midwest, 9.7 percent; West, 9.5 percent; New England, 4.9 percent; Mid-Atlantic, 4.9 percent; Southwest, 3.9 percent; Mountain-Plains, 2.4 percent; Southeast, 1.5 percent.

The data suggested, however, that there was a greater difference regarding the refusal of certain kinds of commodities offered. According to the survey data, items most often refused (over 30 percent) were dry beans, dehydrated potatoes, canned tomatoes, lemon juice (90.1 percent) cranberry sauce, bulgar, all purpose flour, bread flour, whole wheat flour, macaroni, rolled oats, peanut granules, rice and rolled wheat.

Commodity refusals, both as to volume and kinds of foods, and the size of the school's food service operation did not appear to be conclusive. The data did not support that the number of meals served had a notable affect on the recipient agency's decision to refuse certain kinds or amounts of foods offered.

The ASFSA Commodity Survey also compared the wages paid by participating schools to commodity utilization. Interestingly enough, there was a significant difference between the schools paying $3.00 an hour or less and those paying over $7.00 per hour. Those paying $3.00 per hour or less refused 4.7 percent of the amount of food offered; in the schools paying over $7.00 per hour the refusal was 9.9 percent. Schools ranging between the $3.00 and $7.00 range were not significantly different in their refusal rates. This could lead to speculation that school food service operations with higher hourly wage employees tend to utilize foods that minimize preparation time.

It should be emphasized that the Commodity Survey data indicated that refusal in some instances was for a certain product package size rather than a refusal of the product. For example there was a high refusal rate on 50# bags of dry beans but a much lessor rate on the 25# and 2# bags.

After a thorough analysis of the data and comments submitted by the survey respondents, the Blue Ribbon Study Committee concluded that the USDA Donated Food Distribution Program is continuing to make a significant and valuable contribution to the Nation's School Lunch Programs but that there are notable problems at the Federal, State and local administrative and operational levels which restrict program effectiveness.

PROBLEMS IDENTIFIED—FEDERAL LEVEL

Problem 1: (a) Unacceptable quality of many of the commodity foods provided

Comments.—Of the comments offered by the respondents, the greatest by far dealt with the quality of some of the donated foods distributed to the recipient agencies. Items specifically mentioned were canned boned chicken, cooked turkey rolls, french fries and some fruits and vegetables, such as canned peaches and canned corn.

(b) Inappropriate specifications for some of the foods purchased for the school food serve program

Comments.—Closely allied to the problem of unacceptable food quality was the often repeated complaint that some of the specifications used could not and did not provide an acceptable product. Most often mentioned in this regard were the turkey rolls. Respondents also stated that the specs do not conform with industry standards with which they were familiar and were using for local purchases.

Recommendation.—Upgrade food product specifications to provide high quality foods acceptable for use in the Child Nutrition Program, insure specification compliance and quality consistency through closer monitoring of the vendors supplying the items purchased, coordinate specification development, procurement and inspection under one Federal unit. Test for quality and acceptance prior to procurement. Align USDA specifications with those used by industry for whom they must rely on for 70-75 percent of their food supply.

Problem 2: Specifications under which commodity foods are purchased are generally not available to recipient agencies

Comments.—Numerous respondents saw this as a significant problem. Users were unable to monitor products for quality or to determine product acceptance prior to delivery. Program users wanted to know the quality of the food prior to delivery.

Recommendation.—USDA provide a simple concise handbook (multipart looseleaf) of the commodity specifications for use and evaluation by food service personnel at State and local levels. New specifications or changes should be made available to State Distributing Agency for redistribution to recipient agencies.

Problem 3: Unacceptable package sizes and inconsistency of packaging of certain products

Comments.—A significant number of respondents registered concern regarding the packaging of certain commodity items. Specifically mentioned were the heavy 40 lb. blocks of natural cheddar cheese which some users found hard to handle and to efficiently utilize especially in small food service operations. The individual packs of raisins were generally unacceptable.

A further concern centered around the inconsistency of packaging as it relates to the size or pieces of a particular product. Frozen chicken reportedly came in uneven pieces. Butter, for example, would come in 32# or 36# per case. Mozzarella comes in 8/6#, 10/5#, 8/5# and 10/6# units per case. This presents a severe allocation problem for the State Distributing Agency and a menu planning problem at the user level.

Recommendation.—When feasible, purchase commodity items in several package sizes to reflect the different sizes of food service operations. Eliminate package sizes generally not acceptable. Request a uniform size as a part of the bid specification. If package units must be purchased in different sizes, accommodate individual States with the same size pack for a particular product, i.e. all 32# butter or all 8/6# mozzarella cheese.

Problem 4: Some commodity foods do not contribute toward meeting the meal pattern requirements or are not consistent with dietary recommendations

Comments.—The increasing cost of producing meals that must meet prescribed meal pattern requirements and the emphasis on reducing food waste, as well as reducing fats, sugar and salt in the diets, should be given full consideration when purchasing commodity foods for the nutrition programs. Certain commodities, therefore, were not deemed to be beneficial as nutritionally sound for school food service programs.

Recommendations.—Commodity foods provided as a part of the school's per meal entitlement should be items that can be used to meet the meal pattern requirement. Other items should be allocated to the States as bonus items, i.e. butter, dried milk, oil and peanuts and peanut granules. Specification should be reviewed and revised to reduce fat, sugar and salt for the commodities procured to be consistent with dietary recommendations.

Problem 5: Certain commodity items are generally not acceptable for school food service operations: States often take the foods so as not to lose their entitlements, recipient agencies do likewise

Comments.—Based on the ASFSA Commodity Survey, a significant number of commodity foods were refused by the various recipient agencies because they were unacceptable to the students. Examples are: Rolled wheat, dry beans, bulgar, and rice. Other items have a low range of acceptability because they are difficult to handle or too costly to work into a particular food service operation, i.e. whole turkey, flour and oil and inconvenient can sizes such as 29 oz. cans of poultry or 46 oz. cans of juice. They are often reluctant to refuse the items offered for fear there wouldn't be more acceptable replacement items.

Recipient agencies with high refusal rates whether because of student unacceptability or inability to use it in their method of operation, feel that they are being treated inequitably under the program and should therefore be given alternate ways to compensate for that loss.

Recommendations.—The food preference reports developed by the State Advisory Councils should serve as a basis for determining commodity acceptability and amounts needed. When unacceptability within a State exceeds an established acceptance level, maybe 33 percent, such items should be provided as bonus items or alternative commodities be offered to the States.

The food preference reports should also be used to determine if the identified unacceptable items might be more usable in different end products. Further USDA processing of such foods should be considered. State option contracts should be encouraged.

Problem 6: An oversupply of certain commodity foods, which are not used in any abundance in the school food service operations

Comments.—Respondents reported that certain non-bonus commodity foods, i.e., canned tomatoes, purple plums, apricots and cranberry sauce, to name some of them, are offered in amounts that often exceed their annual use rate. Recipient agencies either refuse such items or because it's part of their entitlement, they will take them resulting in excessive inventory and potential food loss.

Recommendation.—In recommending a resolution to the problem, the respondents stressed, once again, the use of the food preference reports and the recommendations of the State Advisory Committees regarding food desirability. Further exploration for new ways to use such foods should be considered at all levels. State Distributing Agencies and local recipient agencies should monitor inventories more closely to avoid a build-up of acceptable but "slow moving" commodities.

Problem 7: The uncertainty of delivery schedules and the failure to deliver within established delivery periods

Comments.—Complaints regarding the shipping schedules and the inability to establish a firm delivery period seems to be a perennial concern, especially among many of the State Agency respondents. Uncertain delivery dates are especially troublesome for States distributing commodities directly from trucks or rail cars upon arrival.

A further concern, as evidenced by some respondents, was the lack of notice by USDA when items planned for purchase were not obtained and distributing agencies were not notified. Others reported that commodities had arrived at their destination without prior notification to the State Distributing Agency. State Distributing Agencies must know when commodities are to be delivered to adequately plan for instate distribution. Local recipient agencies must know what is coming and when, in order to maintain an adequate food supply and coordinate their menu planning and food purchasing with the Donated Food Distribution Program. A delay in shipping available commodities can result in significant additional costs to the user.

Recommendation.—One suggestion was to institute a pilot program to tie a State Distribution Agency to a computer system linked to the Kansas City Commodity Office to provide immediate information on the kinds of items purchased and when they are shipped. Stiffer penalties for failure to meet shipping schedules was suggested.

USDA should continue to study the problems involving commodity shipping schedules and delivery dates and work to resolve them. It was recognized that certain shipping problems, especially the guarantee of a specific delivery schedule, may be difficult to resolve when using rail transportation. Because of presumed cost increases if commodities are hauled primarily by truck to better meet delivery schedules, it was recommended that a study be conducted by USDA to see if a state warehouse/distribution system might be more cost effective.

Problem 8: The uneven flow of commodities and "bunching" of commodity deliveries during the school year

Comments.—An uneven flow of commodity foods and the bunching of commodity deliveries were concerns of numerous respondents. Reportedly many commodity foods cannot be efficiently or effectively utilized when provided late in the school year. Some of the same foods that arrive late had to be purchased during the school year. The bunching of commodities presents storage problems and high storage costs for State Distributing Agencies and for the users. Commodities delivered late in the school year may have to be stored over the summer months at an additional cost to the State/and or users.

Recommendation.—USDA should coordinate the commodity procurement process between the various responsible units, i.e. Food and Nutrition Services (FNS), Food Safety and Quality Service (FSQS) and Agriculture Stabilizations and Consumer Services (ASCS), to effect an even and predictable flow of commodities to the States. To the extent possible, deliveries should be heavier at the start of the school year than at the end of the year.

Problem 9: An inadequate authority/communications structure within USDA and between USDA and the State distributing agency as it pertains to the transmittal of commodity program information from USDA to the State distributing agencies or for the handling of problems reported to USDA by the State distributing agencies

Comments.—There appears to be no direct line of authority to efficiently expedite communications within the various USDA units, i.e. FNS, FSQS and ASCS so as to provide important and timely information to the State Distributing Agencies or to quickly and effectively respond to problems reported to USDA by the State Distributing Agencies.

Recommendation.—USDA should establish a line of authority through which information and complaints can be expeditiously and effectively handled between its internal units having assigned administrative responsibilities for various phases of the Donated Food Distribution Program and between USDA and the State Distributing Agencies.

Personnel should be adequately trained to carryout their position assignments.

Problem 10: A lack of public information regarding the USDA donated food distribution program

Comments.—An apparent lack of understanding at the local level about many aspects of the Program, i.e. program eligibility, commodity benefits/entitlements, bonus commodities and processing contracts was evidenced by the numerous comments from the program users. Likewise, many of the perceived problems dealing with the kinds and amounts of commodities purchased, especially under price support and surplus removal programs indicated a need for a better understanding as to the purpose for which the Donated Food Distribution Program was created.

It can be assumed that if the users are uninformed, the general public knows much less about the Program. "Very little has been done on the National level to 'sell' the Food Distribution Program" was the way one respondent put it.

Recommendation.—Numerous recommendations were offered regarding this concern. USDA should develop a handbook for both State and local agency level use, designed to describe the program, its purpose, benefits, eligibility categories, etc. The handbook might also describe exemplary State warehousing/delivery systems.

Knowledgeable USDA representatives should be available to speak at State Agency and/or State School Food Service Association functions. Public information materials should be made available to the news media. Utilize trade and professional Journals to inform audiences that would benefit from such information. Develop timely informational materials for State Agency distribution to users.

Problems identified—State level

After a thorough review of the comments submitted by the program users, the Blue Ribbon Study Committee was in full agreement that many of the problems within the overall administration and operating of the USDA Donated Food Distribution Program exist at the State Distributing Agency level. In fact many of the same problems identified at the federal level were applicable at the State Agency level.

Following are the problem areas identified and the resolutions offered:

Problem 1: Inadequacy of the instate distribution system

Comments.—The survey respondents (program users) identified numerous problems in this regard. There were complaints about the state warehousing/transportation system or a lack of one, the distance traveled to commodity pickup points, the lateness of commodity distribution notices, unpredictable delivery schedules (which may be related to delivery problems identified at the federal level) and the failure to offer some commodities or an inequitable offering of available items. The list could go on. Inherent in the comments were concerns regarding the inconsistencies between States, especially as it pertained to the systems used to receive and move the commodities to the user within the States.

Recommendation.—Numerous recommendations were offered by the respondents but essentially they were requesting that the State Distributing Agency become aware of and be more sensitive to the needs and concerns of the users. It was suggested that the States operate under a more uniform system for allocating, distributing, inventorying and charging. State Distributing Agencies might wish to ask the USDA to evaluate their instate distribution system and/or to provide consultative and technical assistance. The State's Advisory Council should be asked to study and make recommendations regarding the State's overall distribution system.

Problem 2: Program users are not adequately informed about the donated food distribution program

Comments.—As evidenced by the ASFSA Commodity Survey comments, the users were uninformed about many aspects of the Donated Food Distribution Program. As previously noted, they lacked an understanding about their commodity entitlement, processing contracts, and bonus items. Respondents said there was "a need for improved communications and better information." The committee concluded that many of the complaints would not have been made were users thoroughly informed about the Donated Food Distribution Program.

Recommendation.—Broad recommendations were offered suggesting the need for the State Distributing Agencies to establish an ongoing dialogue with the program users. Information must be thorough and timely. Training sessions and information materials should be provided by the State Distributing Agencies. The role of the State Advisory Council should be expanded to include a responsibility for assessing user needs and the adequacy of State Agency's training and informational program.

Problems identified—local level

Problems relating to the Donated Food Distribution Program at the local or user level, as manifested by many of the respondent comments, can be categorized generally under one broad area—insufficient knowledge about the technical aspects of the Program. And while there is a great need for many users to become more knowledgeable about the Donated Food Distribution Program there is a greater obligation for the federal Agency and State Agencies to serve that need.

Conclusion.—The Blue Ribbon Study Committee believes that the problems herein identified accurately represent the concerns of many of the State and local agencies. The number of problems pertaining to a particular State Agency or user, however, may vary widely. The problems identified are not listed in any sequential order of importance nor are the recommendations offered meant to be all inclusive.

It must be concluded however, that when problems exist, at whatever level, the optimal effectiveness of the Donated Food Distribution Program is not being achieved. The Study Committee cautions against the use of this report as a criticism against the USDA Donated Food Distribution Program itself. The study findings are presented in the spirit of constructive criticism in the hopes that the benefits and services under the Program will be enhanced.

As one respondent so aptly stated it: "The Commodity Program should be a three way effort between the USDA, the State and the schools. If all parties want the Program to work, and we each would do what is required of us, the Program could work well."

VI. Other questions to ponder

The Special Blue Ribbon Study Committee was asked to consider several additional questions regarding its overall study of the USDA Donated Food Distribution Program. The questions to be considered are:

What are the USDA restriction;

What are the recommendations from ASFSA to USDA for improving the commodity system;

What steps should be ASFSA's next step.

USDA restrictions

As of the date of this report the Study Committee has not discussed with USDA officials the matter of legislative restrictions to determine if any such restrictions or requirements might, in fact, be creating problem areas that cannot be readily changed.

Appendix A contains the Regulations which govern the administration of the Donated Food Distribution Program. Also contained therein are references to the various legislative authorities under which various units within USDA procure the commodity foods which schools receive for their food service programs.

The committee feels that a discussion regarding certain problematical restrictions or requirements could logically be undertaken at such time when the problem areas as herein noted are discussed with appropriate USDA representatives.

Recommendations for USDA for improving the commodity system

This question was considered by the Committee as it identified the various problem areas. For each problem identified there is a recommendation to help resolve it. Specifically, the ASFSA Executive Board, upon acceptance of this report, (1) should arrange to meet with appropriate USDA officials to discuss the problems herein identified; (2) ask USDA to resolve the problems as they can reasonably do so and (3) ask USDA to establish an Advisory Council to meet at least annually to discuss problems, make recommendations and evaluate the degree of achievement and/or the effect of changes made to improve the Program. Such committee should have representation from the American School Food Service Association and the National Association of State Agency Food Distributors.

ASFSA's next step

It is the committee's recommendation that ASFSA appoint representatives and make an appointment to meet with appropriate USDA officials to discuss the Study Committee Report.

The committee believes the next step should be the beginning of a continuing interaction with USDA to form a partnership to strengthen and improve the Donated Distribution Program.

APPENDIX A

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Food Distribution Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations for the Food Distribution Program to (1) consolidate the 42 amendments made since the regulations were last published in 1966; and (2) include technical changes reflecting current legislative authority and program functions within USDA.

EFFECTIVE DATE: Effective December 16, 1980.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8388.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA Procedures established in Secretary's Memorandum 1955 to Implement Executive Order 12044 and has been classified not significant.

Introduction

The regulations governing the Food Distribution Program establish the responsibilities of the Food and Nutrition Service (FNS) and State agencies for the distribution and use of federally acquired foods. Current regulations provide for the distribution of donated foods to a variety of domestic outlets, including child nutrition programs, charitable institutions, nonprofit summer camps for children, nutrition programs for the elderly, low-income households and disaster organizations.

As required by Executive Order 12044, Part 250 was scheduled for review in the Department's response to the order published on November 1, 1978 (43 FR 50994), and it was determined that the regulations were in need of overall revision. This final action is a reprint of Part 250, incorporating technical and editorial changes as discussed below. FNS is preparing for public comment additional revisions to this part. Those revisions are described in the Prenotice; Review of Existing Regulations under E.O. 12044 which appears elsewhere in this issue.

Bob Greenstein, Administrator, Food and Nutrition Service, USDA has determined that the technical and editorial nature of these changes warrant publication of this final action without a public comment period. Some changes have been implemented through other regulations and some are the result of legislative mandates which provide for no discretion on the part of the Secretary.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final action are impracticable and contrary to the public interest; and good cause is found for making this final action effective less than 30 days after publication of this document in the **Federal Register.**

Definitions

Sections 409 and 410(b) of the Disaster Relief Act of 1974 authorize the distribution and purchase of donated foods necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such areas. "Major disaster" and "emergency" have therefore been defined in Section 250.3 to assist State Distributing Agencies in identifying these types of situations.

As of October 1979, the administration of the Food Distribution Program for the Commonwealth of the Northern Marianas was no longer part of the administration of the program for the Trust Territory of the Pacific Islands. Thus, the definition of "State" in Section 250.3 has been expanded to include the Commonwealth of the Northern Marianas.

The definition of "needy persons" in Section 250.3(m) of the former regulations has been revised as discussed in the paragraph concerning meal services.

The definitions of "Nutrition Program for the Elderly" and "State Agency on Aging" have been expanded in accordance with Public Law 94-478, which added a new Title VI to the Older Americans Act of 1965, as amended. Title VI provides for nutrition services comparable to those provided under Title III for older Indians represented by tribal organizations.

The distribution of donated foods to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas will continue to be subject to the provisions of Section 250.6(f) as discussed in the paragraph on household distribution. Supplemental Security Income benefits are not available to households in these areas; therefore, the definition of "Supplemental Security Income" has been deleted.

Legislation

Section 250.1(b) of these regulations quotes applicable legislative authorities affecting acquisition or distribution of donated foods. Changes have been made in the quoted provisions of the following statutes to reflect legislative action taken in recent years: (1) Sections 6, 9, 13, 14, and 17 of the National School Lunch Act have been updated in accordance with Public Laws 94-105, 95-166, and 95-627; (2) Section 4(a) of the Agriculture and Consumer Protection Act of 1973 has been updated in accordance with Public Law 95-113; and (3) Section 707 of the Older Americans Act of 1965 has been deleted and replaced with Section 311 of that Act, in accordance with Public Law 95-478. In addition, Section 307 of the Agriculture Trade Development and Assistance Act of 1954 and Section 11 of the Disaster Relief Act of 1969 have been deleted, since those statutes have been repealed. Finally, Sections 409 and 410(b) of the Disaster Relief Act of 1974 have been added to indicate the Department's current responsibilities to distribute and purchase donated foods in major disasters or emergencies.

Household Distribution

Food Distribution Program regulations currently provide for the distribution of donated foods to low-income households which meet minimum income and resource criteria used to determine the need for food assistance.

Section 4(b) of the Food Stamp Act of 1977 prohibits the distribution of federally donated foods to households in jurisdictions where the Food Stamp Program is in operation, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the Commodity Supplemental Food Program. Distribution of donated foods, with or without the Food Stamp Program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

Accordingly, Sections 250.4(a) and 250(f) have been revised. Section 250.4(a) eliminates the distribution of donated foods to households in areas where a Food Stamp Program is in operation except: (1) authorized Indian reservations; (2) during emergency situations caused by a national or other disaster as determined by the Secretary; and (3) for the purpose of the Commodity Supplemental Food Program.

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The regulations for the latter program are published under Part 247 of this chapter. The distribution and use of donated foods with respect to tribal households shall be made in accordance with the provisions set forth in Part 283 of this chapter.

Section 250.6(f) requires that the plan of operation for distribution of donated foods to households on all or part of an Indian reservation meet the requirements of Section 283.5(a) of this chapter. Distribution of donated foods to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas will continue to be subject to the provisions of Section 250.6(f).

Sections 250.8(d) and 250.9(a) have been revised to require that State agencies distribute donated foods and certify needy households in accordance with the plan of operation.

Households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas do not receive any type of assistance which would, by definition, place them in a public assistance household category. Thus, since there are only non-public assistance households in these areas, household categories (i.e., public assistance and non-public assistance) have been eliminated throughout Section 250.6(f).

Section 250.12 provides for payment of operating expense funds to distributing agencies to assist them in meeting operating expenses incurred in providing donated foods to needy households in the Trust Territory and the Northern Marianas. Operating expense funds will be provided for use in the distribution of donated foods to needy families on Indian reservations in accordance with the provisions of Section 283.9 of this chapter.

Donated Foods Used in Meal Services Approved for Food Stamp Program Participation

These regulations also include a change in the definition of "needy persons" in Section 250.3, which affects persons in charitable institutions who purchase meals with coupons issued in the Food Stamp Program. Many non-profit meal services approved for Food Stamp Program participation received commodities under this part as charitable institutions. The Food Stamp Act of 1964 prohibited use of federally donated foods in preparing meals purchased with food coupons. This prohibition was omitted from the Food Stamp Act of 1977 because the Older Americans Act of 1965, as amended, had already made it inapplicable to nutrition programs for the elderly participating under this part. Food Stamp Program regulations issued under Part 278 of this chapter (43 FR 43274–43279) reflect the omission. The definition of "needy persons" in Section 250.3(m) of the regulations is being amended to drop the exclusion of persons who use food coupons for meal purchases from programs receiving commodities under this part, so that approved meal services may now receive donated foods without regard to Food Stamp Program participation.

Use of Donated Foods in Demonstrations and Tests

These regulations delete a reference to another superseded provision concerning donated food use in the Food Stamp Program. Section 10(a) of the Food Stamp Act of 1964 required efforts to "encourage continued use * * * of surplus commodities * * * available through direct distribution" in administering the program, but that requirement was omitted from the Food Stamp Act of 1977.

Reflecting the earlier legislation, Section 250.4(g' of the former regulations, concerning workshops, demonstrations, and tests related to utilization of donated foods by recipient agencies, encouraged use of commodities in "recipient food informational and educational programs undertaken pursuant to Section 10(a) of the Food Stamp Act of 1964, as amended." The Department believes there is no compelling reason for encouraging such use in the Food Stamp Program since the legislative requirement has been lifted. As revised, Section 250.4(g) still permits use of commodities which are donated for specific purposes—e.g., schools, charitable institutions, food distribution to households on Indian reservations, nutrition programs for the elderly—in workshops, demonstrations, and tests related to such programs.

Elderly Nutrition Program

As indicated above, these regulations update the quoted provisions of the Older Americans Act of 1965, as amended by Public Law 94–478. That legislation incorporated the elderly nutrition program, formerly conducted under Title VII of the Act into a more comprehensive program administered under a revised Title III. Section 311(a)(4) of the legislation requires the Department to maintain through fiscal year 1981, an annually programmed level of assistance, in donated foods or cash payments in lieu thereof, of not less than 30 cents per meal served in the program. The level of assistance is subject to annual adjustment to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics, U.S. Department of Labor. All references to Title VII of the Act have been changed to Title III, and Section 250.4(b)(4) has been revised to reflect the current level of assistance to be provided in donated foods or cash payments for each meal served in the program. In addition, the legislation also added to the Act a new Title VI, which provides for Nutrition Services comparable to those provided under Title III for older Indians represented by tribal organizations. The regulations have been revised to provide for the same level of commodity assistance for cash payments to nutrition programs under Title VI as is provided under Title III.

Organization

The regulations have been restructured to provide for a more consistent flow of information. The following table has been compiled as an aid in relating the current regulations to the revised regulations.

Table of Redesignations

Old	New
250.10	250.13
250.11	250.14
250.13	250.10
250.14	250.11
250.15	250.12

7 CFR Chapter II is amended by revising Part 250 to read as follows:

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Sec.
250.1 General purpose and scope.
250.2 Administration.
250.3 Definitions.
250.4 Availability of donated foods.
250.5 Eligible distributing agencies.
250.6 Obligations of distributing agencies.
250.7 Disposition of damaged or out-of-condition foods.
250.8 Eligible recipient agencies.
250.9 Eligible recipients.
250.10 Special feeding programs.
250.11 (Reserved)
250.12 Operating expense funds for distributing agencies.
250.13 Miscellaneous provisions.
250.14 Where to obtain information.

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, 60 Stat. 231, 233, Pub. L. 79–396 (42 U.S.C. 1755, 1758); sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431);

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sec. 402, Pub. L. 83-665, 68 Stat. 843 (22 U.S.C. 1922); sec. 210, Pub. L. 84-540, 70 Stat. 202 (7 U.S.C. 1859); sec. 9, Pub. L. 85-931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86-756, 74 Stat. 899 (7 U.S.C. 1431nt); sec. 709, Pub. L. 89-321, 79 Stat. 1212 (7 U.S.C. 1446a–1); sec. 3, Pub. L. 90-302, 82 Stat. 117 (42 U.S.C. 1761); secs. 409, 410, Pub. L. 93-288, 88 Stat. 157 (42 U.S.C. 5179, 5180); sec. 2, Pub. L. 93-326, 88 Stat. 286 (42 U.S.C. 1762a); Sec. 10, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); sec. 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612cnt); sec. 311, Pub. L. 95–478, 92 Stat 1533 (42 U.S.C. 3030a); sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); (5 U.S.C. 301).

§ 250.1 General purpose and scope.

(a) *Terms and Conditions.* This part prescribes the terms and conditions under which foods may be obtained by Federal, State, and private agencies for use in any State in schools, child care institutions, nonprofit summer camps for children, charitable institutions, correctional institutions for minors, nutrition programs for the elderly, and the assistance of needy persons.

(b) *Legislation.* The distribution of commodities is authorized for the stated purposes by the following legislation:

(1) Section 416 of the Agricultural Act of 1949, as amended (hereinafter referred to as "section 416"), which reads in part as follows:

> In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: * * * (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transportation, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States.* * *

(2) Section 210 of the Agricultural Act of 1956 (hereinafter referred to as "section 210"), which reads in part as follows:

> Notwithstanding any other limitation as to the disposal of surplus commodities acquired through price-support operations, the Commodity Credit Corporation is authorized on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, and upon application, to donate food commodities acquired through price-support operations * * * to State correctional institutions for minors, other than those in which food service is provided for inmates on a fee, contract or concession basis.

(3) Section 32 of Pub. L. 74–320, as amended (hereinafter referred to as "section 32"), which reads in part as follows:

> There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to * * * (2) encourage the domestic consumption of such (agricultural) commodities or products by diverting them * * * from the normal channels of trade and commerce * * *

(4) Pub. L. 75–165, as amended, which supplemented section 32 and reads in part as follows:

> In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase * * * of agricultural commodities and products thereof, and such commodities * * * may be donated for relief purposes and for use in nonprofit summer camps for children.

(5) Section 9 of the Act of September 6, 1958 which reads in part as follows:

> Notwithstanding any other provision of law those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431); * * *

(6) Section 6 of the National School Lunch Act, as amended (hereinafter referred to as "section 6"), which reads in part as follows:

> (a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less (1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966; (2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5, and 7 of the Child Nutrition Act of 1966; and (3) not to exceed 1 per centum of the funds provided by carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3 * * * shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. Any school participating in the food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year * * * (e) For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and the amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meat, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.

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(7) Section 9(c) of the National School Lunch Act, as amended, which reads in part as follows:

(c) School lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 744), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions.

* * *

(8) Section 402 of the Mutual Security Act of 1954, as amended, which reads in part as follows:

* * * surplus food commodities or products thereof made available for transfer under this Act (or any other Act) as a grant or as a sale for foreign currencies may also be made available to the maximum extent practicable to eligible domestic recipients pursuant to section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), or to needy persons within the United States pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c).

(9) Pub. L. 88–756, as amended, which reads as follows:

Schools receiving surplus foods pursuant to clause (3) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) are authorized to use such foods in training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

(10) Section 409 of the Disaster Relief Act of 1874, which reads as follows:

(a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act * * * and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factor s as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act * * * except as they relate to the availability of food stamps in an area affected by a major disaster.

(11) Section 410(b) of the Disaster Relief Act of 1974, which reads as follows:

The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

(12) Section 709 of the Food and Agriculture Act of 1965, as amended (hereinafter referred to as section 709), which reads as follows:

The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes.

(13) Section 13(h) of the National School Lunch Act, as amended, which reads as follows:

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(14) Section 8 of the Child Nutrition Act of 1966 which reads in part as follows:

* * * Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

(15) Section 311 of the Older Americans Act of 1965, as amended, which reads in part as follows:

(a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with provisions of this title.

(2) The Commodity Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) In donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than * * * 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal during the three succeeding fiscal years. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after June 30, 1975, to reflect changes in the series fo[illegible] food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) During each of the fiscal years ending before October 1, 1981, the Secretary of Agriculture shall purchase high protein foods, meat, and meat alternates on the open market, at prices not in excess of market prices, out of funds appropriated under this section, as determined under paragraph (3), for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this title. High protein foods, meat, and meat alternates purchased by the Secretary of Agriculture under this subsection shall be grown and produced in the United States.

(2) High protein foods, meat, and meat alternates donated under this subsection shall not be considered donated commodities for purposes of meeting the requirement of subsection (a)(4) with respect to the annually programmed level of assistance under subsection (a).

(3) There are authorized to be appropria[illegible] such sums as may be necessary in order to carry out the program established under paragraph (1).

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(c)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(16) Section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended, (hereinafter referred to as "section 4(a)"), which reads as follows:

Notwithstanding any other provision of law, the Secretary may, during fiscal years 1978, 1979, 1980, and 1981 purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(17) Section 14 of the National School Lunch Act, as amended (hereinafter referred to as "section 14"), which reads as follows:

(a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1982 shall—(1) use funds available to carry out the provisions of section 32 of the act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, (which may include domestic seafood commodities and their products) for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and Title III of the Older Americans Act of 1965; and (2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) of the Older Americans Act of 1965, as amended, (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 311(c)(1) of such Act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States; (2) solicit the views of States with respect to the acceptability of commodities; (3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice; (4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; (5) make available technical assistance on the use of commodities available under the Act and the Child Nutrition Act of 1966 * * *.

(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(18) Section 17(h) of the National School Lunch Act, as amended, which reads as follows:

(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(19) Section 12(g) of the National School Lunch Act, as amended, which reads as follows:

(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 250.2 Administration.

FNS. The Food and Nutrition Service (referred to in this part as FNS) of the U.S. Department of Agriculture shall have responsibility for the program of distribution of food commodities under this part.

§ 250.3 Definitions.

"Charitable institutions" means (1) nonpenal, noneducational public (Federal, State or local) institutions, (2) nonprofit, tax-exempt, private hospitals, or (3) other nonprofit, noneducational, tax-exempt, private institutions organized for charitable or public welfare purposes, including any institution defined as "school," "service institutions," or "nonresidential child care institution" which is not a commodity-only school or does not participate in any Child Nutrition Program, (National School Lunch Program, Special Milk Program, School Breakfast Program, Summer Food

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Service Program for Children, Child Care Food Program (Parts 210, 215, 220, 225, and 226, respectively, of this chapter)). For purposes of this paragraph, tax-exempt shall mean exempt from income tax under the Internal Revenue Code, as amended, and a charitable institution shall be considered "noneducational" even though educational courses are given, where such courses are an incident to the primary purpose of the charitable institution.

"Child care center" means any licensed, nonschool, public or private nonprofit organization providing day care services where children are not maintained in permanent residence, including but not limited to, day care centers, settlement houses, recreation centers, Head Start centers, and organizations providing care services for handicapped children.

"Commodities" means foods donated, or available for donation, by the Department under any of the legislation referred to in this part.

"Commodity-only school" means a school which does not participate in the National School Lunch Program but which operates a nonprofit lunch program under agreement with the State education agency or FNSRO in accordance with Part 210 of this chapter.

"Department" means the United States Department of Agriculture or the Commodity Credit Corporation, whichever is donor under the pertinent legislation.

"Disaster organizations" means organizations authorized by appropriate Federal or State officials to assist disaster victims.

"Disaster victims" means persons who, because of Acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

"Distributing agencies" means State, Federal or private agencies which enter into agreements with the Department for the distribution of donated foods to eligible recipient agencies and recipients. A distrubuting agency may also be a recipient agency.

"Donated foods" means foods donated, or available for donation, by the Department under any of the legislation referred to in this part.

"Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, health, and safety or to avert or lessen the threat of a disaster.

"Family and group day care home" means a licensed organized day care program for children in a private home under the auspices of a public or nonprofit private sponsoring organization.

"Fiscal year" means the period of 12 months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FNSRO" means the appropriate Food and Nutrition Service Regional Office of the Food and Nutrition Service of the Department of Agriculture.

"Household" means a group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit, sharing common cooking facilities, and for whom food is customarily purchased in common. It also means a single individual, living alone, who has cooking facilities and prepares food for home consumption.

"Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974, (42 U.S.C. 5121), above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

"Needy persons" means (1) persons serviced by charitable institutions, who, because of their economic status, are in need of food assistance, (2) all the members of a household who are certified as in need of food assistance, and (3) persons who, because of Acts of God or manmade disasters, are in need of food assistance, whether or not they are victims of a major disaster or an emergency as defined in this section.

"Nonprofit lunch program" means a food service maintained by a school for the benefit of children, all of the income from which is used solely for the operation or improvement of the food service.

"Nonprofit summer camps for children" means nonprofit camps which do not participate in the Summer Food Service Program for Children authorized under Section 13 of the National School Lunch Act, as amended, and in which, during the months of May through September, nonprofit feeding services are conducted for children of high school grade and under.

"Nonresidential child care institution" means a child care center, a family and group day care home, and a sponsoring organization.

"Nutrition program for the elderly" means a project conducted by a recipient of a grant or contract under Title III or Title VI of the Older Americans Act of 1965, as amended, to assist in meeting the nutritional and social needs of persons aged sixty or older.

"Recipients" means needy persons and disaster victims receiving commodities for their own use.

"Recipient agencies" means disaster organizations, charitable institutions, nonprofit summer camps for children, school food authorities, schools, service institutions, welfare agencies, nutrition programs for the elderly, and nonresidential child care institutions, receiving foods for their own use or for distribution to eligible recipients.

"School" means (1) an educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grade classes are conducted in a school having classes of primary or higher grade; (2) with the exception of residential summer camps which are eligible to participate in the Summer Food Service Program for Children under Part 225 of this chapter and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: homes for the mentally retarded, the emotionally

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disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; half-way houses; orphanages; temporary shelters for abused children and for runaway children; long-term care hospitals for chronically ill children; and juvenile detention centers; and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

"School food authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a nonprofit lunch program therein.

"School year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"Secretary" means the Secretary of Agriculture.

"Service institutions" means nonresidential public or private nonprofit institutions and public or private nonprofit camps that develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs.

"Sponsoring organization" means any public or private nonprofit organization which is an independent entity responsible for the management of the food program in one or more child care centers or family and group day care homes.

"State" and "United States" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"State Agency on Aging" means (1) the State agency that has been designated by the Governor and approved by the United States Department of Health and Human Services (DHHS) to administer nutrition programs for the elderly under Title III of the Older Americans Act of 1965, as amended or (2) the Indian Tribal Organization which has been approved by DHHS to administer nutrition programs for the elderly under Title VI of such Act.

"State correctional institutions for minors" means institutions, such as reform schools or training schools, operated by a State, which are devoted solely to the rehabilitation and education of minors and are classified under State law as nonpenal in character, and in which food service is not provided for inmates on a fee, contract, or concession basis.

"State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State Superintendent of Public Instruction, Commissioner of Education, or similar officer) or (2) a board of education controlling the State Deparment of Education.

"Students in home economics" means students in regular classes wherein they are taught food preparation, cooking, and serving.

"Subdistributing agencies" means agencies performing one or more distribution functions for distributing agencies other than, or in addition to, functions normally performed by common carriers or warehousemen. A subdistributing agency also may be a recipient agency.

"Welfare agencies" means public (Federal, State or local) or private agencies offering assistance on a charitable or welfare basis to needy persons who are not residents of an institution, and to Tribal Councils designated by the Bureau of Indian Affairs.

§ 250.4 Availability of donated foods.

(a) *Distribution and use of donated foods.* Commodities shall be available only for distribution and use in accordance with the provisions of this part and, with respect to distribution to households on all or part of an Indian reservation, of Part 283 of this chapter. Donated foods not so distributed or used (for any reason) shall not be sold, exchanged or otherwise disposed of without the approval of the Department. However, donated foods may be transferred between recipient agencies with the authorization of the distributing agency if determined to be in the best interest of the distribution program. In areas where a Food Stamp Program is in effect, there shall be no distribution of donated foods to households under this part except: (1) to authorized Indian reservations; (2) during emergency situations caused by a national or other disaster as determined by the Secretary; and (3) for the purpose of the Commodity Supplemental Food Program.

(b) *Quantities.* (1) The quantity of donated foods to be made available for donation under this part shall be determined in accordance with the pertinent legislation and the program obligations of the Department, and shall be such as can be effectively distributed in furtherance of the objectives of the pertinent legislation.

(2) For each school year, the national average value of donated foods to be made available to States for distribution to schools, or cash payments in lieu thereof, shall not be less than 10 cents for each lunch, adjusted on an annual basis as provided in paragraph (b)(5) of this section. Not less than 75 per centum of the food distribution assistance for schools shall be in the form of donated foods.

(3) For each school year, the national average value of donated foods to be made available to States for distribution to nonresidential child care institutions, or cash payments in lieu thereof, shall not be less than 10 cents for each lunch and supper, adjusted on an annual basis as provided in paragraph (b)(5) of this section.

(4) For the fiscal year ending September 30, 1981, the quantity of donated foods to be made available to any State for distribution to nutrition programs for the elderly shall be valued at not less than 30 cents for each meal which the State Agency on Aging, in accordance with regulations and guidelines authorized by the Commissioner on Aging, United States Department of Health and Human Services, reports as having been served or, where necessary, estimates will be served within the State during the year, adjusted on an annual basis as provided in paragraph (b)(5) of this section: *Provided, however,* That this quantity shall be reduced to the extent that a State elects to receive cash in lieu of donated foods in accordance with § 250.13(f) of this part.

(5) (i) The value of donated foods to be distributed for lunches in schools and for lunches and suppers in nonresidential child care institutions, or, where applicable, the amount of cash payments to be made in lieu of donated foods for such meals, shall be adjusted on an annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions prescribed by section 6(e)(2) of the National School Lunch Act, as amended. (ii) The value of donated foods to be distributed to nutrition programs for the elderly, or, where applicable, the amount of cash payments to be made in lieu of donated foods, shall be adjusted on an annual basis to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. (iii) The adjustments required by (i) and (ii) shall be computed to the nearest one-fourth cent and shall be

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made effective as of the beginning of each school year for schools and nonresidential child care institutions and as of the beginning of each fiscal year for nutrition programs for the elderly.

(6) The Department may, at its discretion, and consistent with pertinent legislation, restrict distribution of donated foods to one or more classes of recipient agencies or recipients.

(c) *Minimum donations.* Commodities shall be donated only in such quantities as will protect the lowest carload freight rate, except as deemed in the best interest of the program as determined by the Department.

(d) *Allocations.* As commodities become available for donation, the Food Distribution Division, FNS, shall notify distributing agencies regarding the commodities, the class or classes of recipient agencies or recipients eligible to receive them, and any special terms and conditions of donation and distribution which attach to a particular commodity in addition to the general terms and conditions set forth herein. Every attempt shall be made to deliver commodities in accordance with requested schedules. However, the Department shall not be responsible for delay in delivery or for nondelivery of commodities due to any cause.

(e) *Processing and other costs.* The Department shall pay such processing, reprocessing, transporting, handling and other charges accruing up to the time of transfer of title to distributing agencies as is deemed in the interest of the Department.

(f) *Transfer of title.* Title to donated foods shall pass to distributing agencies upon their acceptance of donated foods at time and place of delivery, limited, however, by the obligation of the distributing agency to use such donated foods for the purposes and upon the terms and conditions set forth in this part.

(g) *Availability for demonstrations and tests.* Notwithstanding any other provision of this part, a quantity of any commodity donated for use by any recipient agency or recipient may be transferred by the distributing agency or by the recipient agency to bona fide experimental or testing agencies, or for use in workshops, for demonstrations or tests relating to the utilization of such commodity by the recipient agency or recipient. No such transfer by any recipient agency shall be made without [illegible] approval of the appropriate distributing agency.

(h) *Refusal of donated foods by school food authorities.* Any school food authority participating in food service programs under the National School Lunch Act, as amended, may refuse, at the time they are offered, donated foods and other foods offered for delivery for lunches in any school year if such foods cannot be used effectively. The school food authority may receive, in lieu of the refused donated foods, other donated foods to the extent other donated foods are available to the State during the school year: *Provided, however,* That not more than 20 percent of the value of the donated foods offered to a school food authority for lunches during the school year shall be subject to replacement with other available donated foods unless replacement based on the refusals of more than 20 percent of such value is feasible and practical.

§ 250.5 Eligible distributing agencies.

(a) *State and Federal agencies.* Such State and Federal agencies as are designated by the Governor of the State, by the State legislature, and approved by the Secretary shall be eligible to become distributing agencies.

(b) *Private agencies.* Where State distributing agencies are not permitted by law to make distribution to private recipient agencies, or to any class of private recipient agency, private agencies which agree to make distribution of donated foods on a Statewide basis and which apply directly to the Food Distribution Division, FNS, and are approved by the Secretary shall be eligible to become distributing agencies.

(c) *Agreements with Department.* Prior to the inauguration of a distribution program, eligible agencies shall enter into written agreements with the Department which shall incorporate by reference or otherwise the terms and conditions set forth in this part. When requested by the Department an eligible agency shall present evidence of its authority to enter into such agreements.

§ 250.6 Obligations of distributing agencies.

(a) *Determination of eligibility.* Distributing agencies shall determine that recipient agencies or recipients to whom they distribute donated foods are eligible under this part, and shall impose upon public welfare agencies the responsibility for determining that recipients to whom welfare agencies distribute commodities are eligible: *Provided, however,* That the State educational agency or FNSRO shall determine the eligibility under this part of schools and of service institutions participating in the Summer Food Service Program for Children under Part 225 of this chapter.

(b) *Agreements.* Distributing agencies shall enter into agreements with subdistributing agencies, recipient agencies, warehousemen, carriers, or other persons to whom donated foods *are delivered under their distribution* program. Agreements with subdistributing agencies and recipient agencies shall be in writing, except in those instances where subdistributing agencies are acting as agents for the distributing agencies. All agreements shall contain such terms and conditions as the distributing agency deems necessary to insure that (1) the distribution and use of donated foods is in accordance with this part, (2) subdistributing agencies, recipient agencies, warehousemen, carriers, or other persons to whom donated foods are delivered by the distributing agency are responsible to the distributing agency for any improper distribution or use of donated foods, and for any loss of, or damage to, donated foods caused by their fault or negligence, (3) subdistributing agencies and recipient agencies have and preserve a right to assert claims against other persons to whom donated foods are delivered for care, handling or distribution, and (4) subdistributing agencies and recipient agencies will take action to obtain restitution in connection with claims arising in their favor for improper distribution, use or loss of, or damage to, donated foods. To the extent that bills of lading and warehouse receipts satisfy the above-stated criteria, the distributing agency may consider such documents as appropriate agreements.

(c) *Use of subdistributing agencies.* If distributing agencies use subdistributing agencies to distribute donated foods, the distributing agencies' responsibilities to the Department for overall management and control of the distribution program shall not be delegated to such subdistributing agencies.

(d) *Distribution to charitable institutions.* Distributing agencies shall submit for prior approval by FNS a description of the method or methods by which the distributing agencies will determine the number of needy persons in charitable institutions. The methods so approved shall include, but are not limited to, those which identify the persons, or the number thereof, who do not pay the full charge assessed for the services provided to them or who are unable to pay the full cost of providing such services.

(e) *Distribution to schools.* Prior to making distribution to schools, distributing agencies shall notify each school food authority of its right to refuse delivery of not more than 20 percent of the total value of donated foods offered to it by such agencies for use in nonprofit lunch programs in any

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school year and to receive other donated foods, if available, in lieu of those refused, in accordance with § 250.4(h). Notification of commodity refusal rights shall be provided by means of a letter or by an addendum to the agreement required by paragraph (b) of this section to each school food authority prior to the beginning of each school year.

(f) *Household distribution.* Distributing agencies, prior to making distribution to welfare agencies or households, shall submit a plan of operation for approval by the appropriate FNS Regional Office. The plan of operation for food distribution to households on all or part of an Indian reservation shall meet the requirements of § 283.5(a) of this chapter. Food distribution to households in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas shall continue to be subject to the provisions of this paragraph. Such plan shall incorporate the procedures and methods to be used in certifying households as in need of food assistance; in making distribution to households; and in providing a fair hearing to households whose claims for food assistance under the plan are denied or are not acted upon with reasonable promptness, or who are aggrieved by an agency's interpretation of any provision of the plan. Each State distributing agency shall submit its plan of operation and any amendment thereto to the High Commissioner of the Trust Territory or the Governor of the Commonwealth of the Northern Marianas, or their delegate, as appropriate, for comment on its relationship to other plans and programs. The Governor, and the High Commissioner or their delegate, shall be allowed a period of 45 days, prior to submission of the plan or amendment to FNS by the State distributing agency, to make such comments and attach them to the plan or amendment. No amendment to the plan of operation of a distributing agency shall be made without prior approval of FNS, and FNS may require amendment of any plan as a condition of continuing approval. Distributing agencies shall require welfare agencies making distribution to households to conduct distribution programs in accordance with all provisions of the State plan of operation. As a minimum, the plan shall include the following:

(1) The name of the public welfare agency or agencies which will be responsible for certification of households.

(2) The manner in which donated foods will be distributed, including, but not limited to, the identity of the agency that will distribute donated foods, the storage and distribution facilities to be used and the method of financing.

(3) *The specific criteria to be used in certifying households as in need of food assistance.* The income and resource standards established by each distributing agency for use by welfare agencies in determining the eligibility of applicant households, after October 1979, shall continue to be those standards used as of that date which were incorporated in a plan of operation approved by FNS, unless an amendment to such standard is required or approved by FNS.

(4) The method or methods that will be used to verify the information upon which the certification of eligibility is based, including the kinds of documentary evidence that applicants are required to furnish to obtain certification.

(5) Provisions for periodically reviewing the certification of households to discover any change in their status which would necessitate a change in the determination of eligibility. The eligibility of households shall be reviewed at least every three months, except that such reviews may be made at longer periods, not to exceed 12 months, provided that such longer periods are based upon a determination by the certifying agency that the income and resources available to such households will probably remain essentially unchanged during such period.

(6) Provisions for identifying each person who has been designated to receive donated foods for a household.

(7) Assurance that the distribution of donated foods shall not be used as a means to further the political interest of any individual or party, and that there shall be no discrimination in the distribution of donated foods because of race, color, or national origin.

(8) Assurance that (i) citizenship or durational residence requirements shall not be imposed as a condition of eligibility and (ii) recipients shall not be required to make any payments in money, materials or services, for or in connection with the receipt of donated foods, and that they shall not be solicited in connection with the receipt of donated foods for voluntary cash contributions for any purpose.

(9) The manner in which the distributing agency plans to supervise the program.

(10) Definitions of any terms used which cannot be determined by reference to Webster's New International Dictionary (second edition).

(g) *Quantities requested. Donated foods shall be requested and distributed* only in quantities which can be consumed without waste in providing food assistance for persons eligible under this part. Distributing agencies shall impose similar restrictions on recipient agencies.

(h) *Distribution.* Donated foods shall be distributed only to recipient agencies and recipients eligible to receive them under this part (see §§ 250.8 and 250.9). Distributing agencies shall require that welfare agencies and disaster organizations distribute donated foods only to recipients eligible to receive them under this part. Distribution of donated foods to charitable institutions shall be made based on the number of needy persons served by them, as determined by the method of methods approved by FNS in accordance with paragraph (d) of this section. Distribution of donated foods to schools, service institutions, and nonresidential child care institutions shall be made on the basis of the average daily number of meals to be served which meet the meal type requirements prescribed in the regulations for the National School Lunch Program under Part 210 of this chapter, the School Breakfast Program under Part 220 of this chapter, the Summer Food Service Program for Children under Part 225 of this chapter, and the Child Care Food Program under Part 226 of this chapter, respectively, as evidenced by information provided by the administering State agency or FNSRO by September of each year for schools and nonresidential child care institutions and by June of each year for service institutions, and supplemented subsequently as necessary. Distribution of section 6 commodities shall be limited to those schools, service institutions, and nonresidential child care institutions which participate in such child nutrition programs under this chapter.

(i) *Redonations.* Whenever a distributing agency has any donated food on hand which it cannot efficiently utilize, it shall immediately request the appropriate FNSRO for instructions as to the disposition of such donated foods. Distributing agencies requesting authority to make redonation of any donated foods to the Department shall, upon the Department's request, have such donated foods federally-inspected at the distributing agences' expense. Any donated foods which the Department determines are acceptable for redonation shall be moved at the distributing agency's expense to the closest point, within the Food Distribution Division area in which the

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State is located, where it can be utilized to a closer point outside the area, if such a transfer is mutually agreed to by the Department and the distributing agency. In those instances in which the distributing agency satisfactorily demonstrates to the Department that the need for any redonation resulted from no fault or negligence on its part, the Department shall assume transportation costs as it determines to be proper. Whenever a redonation is made at the request of the Department, the Department shall pay all transportation and handling costs in connection with such redonation and shall pay to the distributing agency all storage and handling costs accrued on the donated foods at the time of donation, as determined by the Department.

(j) *Distribution charges.* Recipient agencies may be required to pay part or all of the within-State costs of distribution through a system of charges assessed by distributing or subdistributing agencies. Any system of assessment operated by the distributing agency shall have the prior approval of and be subject to review by the FNSRO. Any such system operated by subdistributing agencies shall have the prior approval of the distributing agency and be subject to review by the distributing agency and the FNSRO. The charges assessed shall be reasonable in relation to the services provided and the funds collected shall be used solely in accordance with the provisions of paragraph (k) of this section. Under no circumstances shall recipients be required to make any payments in money, materials, or services for or in connection with the receipt of donated foods, nor shall they be solicited in connection with the receipt of donated foods for voluntary contributions for any purpose.

(k) *Use of funds accruing in operation of the program.* Funds accruing from the sale of containers, salvage of donated foods, distribution charges, insurance, or recoveries from loss or damage claims (which are authorized under paragraph (m) of this section to be expended for program purposes) shall be used only for the payment of expenses of the food distributing program, including transportation, storage and handling of donated foods, salaries of persons directly connected with the program, and other administrative expenses. The receipt and expenditure of funds so accrued shall be reviewed by distributing agencies periodically, but at least once each fiscal year, to determine that fund balances are not in excess of program needs. If excess funds accumulate by reason of collection of distribution charges, such excess funds shall be used to reduce such charges or shall be returned to contributors. If excess funds accrue from the sale of containers, salvage of donated foods, insurance, or recoveries from loss or damage of claims, such funds shall be (1) used to reduce distribution charges, (2) used to purchase additional foods, or (3) paid to the Department. The distributing agency shall impose upon subdistributing agencies and recipient agencies similar provisions for the use of such funds accruing in the operation of their programs.

(l) *Normal food expenditures.* Donated foods shall not be distributed to any recipient agencies or recipients whose normal food expenditures are reduced because of the receipt of donated foods, except that this provision shall not apply to the distribution of section 6 donated foods.

(m) *Improper distribution or loss of or damage to donated foods.* If a distributing agency improperly distributes or uses any donated foods, or causes loss of or damage to a donated food through its failure to provide proper storage, care, or handling, the distributing agency shall, at the Department's option, (1) replace the donated food in its distribution program in kind, or, in the case of section 6 donated foods, where replacement in kind may not be practicable, with other similar foods, or (2) pay to the Department the value of the donated food as determined by the Department. Upon the happening of any event creating a claim in favor of a distributing agency against a subdistributing agency, recipient agency, warehouseman, carrier, or other person, for the improper distribution, use, or loss of, or damage to, a donated food, the distributing agency shall take action to obtain recovery. All amounts collected by such action shall, at the Department's option, be used in accordance with the provisions of paragraphs (m)(1) or (2) of this section, or, except for amounts collected on claims involving section 6 donated foods, shall be expended for program purposes in accordance with the provisions of paragraph (k) of this section. Determinations by a distributing agency that a claim has or has not arisen in favor of the distributing agency against a subdistributing agency, recipient agency, warehouseman, carrier, or other person, shall, at the option of the Department, be approved by the Department prior to the distributing agency's taking action thereon. Where prior approval has not been given by the Department, a distributing agency's claim determinations shall be subject to review by the Department. In the case of an inventory shortage, when the loss of any one commodity does not exceed 1 percent of the total quantity of the donated food distributed or utilized from any single storage facility during the Federal fiscal year in which the loss occurred, or during the period for which an audit was conducted by representatives of the Department, or, if approved by FNS, during the period for which an audit was conducted by the distributing agency, if the distributing agency finds that (i) the cause of the shortage cannot be established, (ii) the lost donated foods were held in non-commercial storage or other facilities owned or operated by the distributing agency, a subdistributing agency, or a recipient agency, and (iii) there is no indication that the loss was the result of negligence or continued inefficiency in operations, the distributing agency need not take any further claims action, but the factual basis for not taking further claims action shall be subject to review by the Department. Furthermore, distributing agencies shall not be required to file or pursue a claim for a loss which does not exceed an amount established by State law, regulations, or procedure as a minimum amount for which a claim will be made for State losses generally, but no such claim shall be disregarded where there is evidence of violation of Federal or State statutes. Distributing agencies which fail to pursue claims arising in their favor, or fail to provide for the right to assert such claims, or fail to require their subdistributing agencies and recipient agencies to provide for such rights shall be responsible to the Department for replacing the donated foods or paying the value thereof in accordance with the provisions of paragraphs (m)(1) or (2) of this section. Distributing agencies which pursue claims arising in their favor, but fail to obtain full restitution shall not be liable to the Department for any deficiency unless the Department determines that the distributing agency fraudulently or negligently failed to take reasonable action to obtain restitution. The Department may, at its option, require assignment to it of any claim arising from the distribution of donated foods.

(n) *Processing and labeling of commodities.* (1) Distributing agencies, subdistributing agencies, or recipient agencies may employ commercial or institutional facilities to process donated foods by converting them into different end products or by repackaging them. Distributing agencies or subdistributing agencies may contract

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for the processing of donated foods and pay the processing cost or may contract for the processing of donated foods on behalf of one or more recipient agencies, each of which either pays the processor directly or pays the distributing agency for the processed end product it receives. Where the recipient agency pays the processor, the agreement of the recipient agency may be obtained by making that agency a party to the processing contract or separate contracts may be entered into between the recipient agency and the distributing or subdistributing agency. Distributing or subdistributing agencies shall require recipient agencies which employ commercial or institutional facilities to process donated foods to enter into written contracts with such facilities.

(2) Contracts with processing facilities shall be in writing. The distributing, subdistributing or recipient agency (contracting agency) should have an attorney prepare or review the contracts which it intends to sign to insure that such contracts conform to the requirements of local law. These processing contracts shall include the cost to the contracting agency and provide, as a minimum, that the processing facility shall (i) describe each end product to be produced and the quantity of each ingredient which is needed to yield a specific number of each end product, except that distributing, subdistributing, or recipient agencies may permit the processor to specify the total quantity of any flavorings or seasonings which may be used without identifying the ingredients which are, or may be components of, seasonings or flavorings, (ii) fully account for the donated foods delivered into its possession by production of any appropriate number of units of end products or packages, (iii) return all donated foods not so accounted for or pay the value of any such donated foods which cannot be returned, (iv) use or dispose of the containers in which the donated foods are received in accordance with the instructions of the distributing, subdistributing, or recipient agency, (v) apply as a credit against contract cost any funds received from the sale of containers of donated foods and obliterate or remove all restrictive markings if the containers are sold for commercial reuse, (vi) apply as a credit against contract costs the market value or the price received from the sale of any byproducts derived from the processing of donated foods, including substituted foods which are used by the processor, and (vii) maintain records and submit reports to the distributing, subdistributing, or recipient agency pertaining to the performance of the contract.

(3) The processing contract may provide that the processor may substitute for the donated foods a like quantity of the same foods of equal or better quality whenever depleted inventories of donated foods would otherwise hold up production. The contract shall specify the donated foods which may be substituted. Only butter, flour, rice, rolled oats, rolled wheat, nonfat dry milk, shortening, cornmeal, dried peas, lentils, dried beans, cheese, orange juice, peanut butter, raisins, and such other foods as FNS specifically approves may be substituted.

(4) Distributing agencies shall review and approve processing contracts entered into by subdistributing agencies and recipient agencies prior to the delivery of donated foods for processing under such contracts. The distributing agency which enters into or approves a processing contract shall provide a copy to each of the parties to the contract, forward a copy to the appropriate FNS Regional Office, and retain a copy for its files. Distributing agencies shall review and analyze reports submitted by processors to insure that performance under such contracts is in accordance with the provisions set forth in this section.

(5) When donated meat or poultry products are processed, all of the processing shall be performed in a plant or plants under continuous Federal meat or poultry inspection, or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection program.

(6) Distributing agencies may, at their discretion, require subdistributing agencies, recipient agencies, and commercial or institutional facilities which process or repackage donated foods to label the containers of processed or repackaged donated foods in any manner and with whatever legend the distributing agency deems appropriate to comply with the agreement it has entered into with the Department under this part. Any labeling requirement imposed by a distributing agency must be specified in written contracts with processors which distributing agencies are required to review and approve.

(7) If the distributing agency which enters into or approves a contract for the processing of donated foods for use in a child nutrition program does not also administer such programs, it shall (i) collaborate with the State agency which administers the child nutrition programs and have that agency provide technical assistance to determine whether end products to be provided under the terms of the processing contracts meet required nutritional standards for reimbursement under the regulations governing the child nutrition programs (7 CFR Parts 210, 220, 225 and 226), (ii) furnish that agency with reports, as requested, on the number of approved processing contracts, the donated foods utilized, and the identity of the processing companies, and (iii) furnish that agency with such performance reports as are needed by that agency to assist it in evaluating use of end products by the recipient agencies.

(o) *Containers.* When containers in which donated foods are received are disposed of by sale, the proceeds of such sale shall be used solely in accordance with the provisions of paragraph (k) of this section, and subdistributing agencies and recipient agencies shall be required to use proceeds from the sale of containers solely for program purposes.

(p) *Personnel.* Adequate personnel, including supervisory personnel, shall be provided to review distribution programs and to effect distribution in accordance with the requirements of this part.

(q) *Facilities.* Facilities for the handling, storage, and distribution of donated foods shall be such as to properly safeguard against theft, spoilage, and other loss. Subdistributing agencies and recipient agencies shall be required to provide similar facilities.

(r) *Records.* Accurate and complete records shall be maintained with respect to the receipt, disposal and inventory of donated foods, including determinations with respect to liability for any improper distribution or use of, or loss of, or damage to, such foods and the results obtained from the pursuit of claims arising in favor of the distributing agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of funds arising from operation of the distribution program. Distributing agencies shall require all subdistributing and recipient agencies to maintain accurate and complete records concerning the receipt, disposal and inventory of donated foods and any funds which may accrue from the operation of the distribution program. Distributing agencies shall maintain accurate and complete records with respect to amounts and value of donated foods refused by school fund authorities in accordance with § 250.4(h) and shall require that school fund authorities also maintain such records of refusals. Any person who contracts with a distributing agency, subdistributing agency or recipient agency to repackage,

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process or prepare any donated foods shall be required to keep records, similar to those required of distributing, subdistributing and recipient agencies under this paragraph, with respect to the receipt, disposal and inventory of such foods. In addition, such person shall be required to keep formulas, receipts, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use made of such foods and their subsequent redelivery (in whatever form) to any such agency. All recipient agencies shall be required to keep accurate and complete records showing the data and method used to determine the number of eligibile persons served by that agency. All records required by this section shall be retained for a period of 3 years from the close of the Federal fiscal year to which they pertain.

(s) *Reports.* Distributing agencies shall submit monthly reports to the Food and Nutrition Service Regional Office, FNS, covering the receipt and distribution of donated foods, and such other reports covering distribution operations in such form as may be required from time to time by the Department.

(t) *Right of inspection and audit.* Representatives of the Department may inspect donated foods in storage, or the facilities used in the handling or storage of such donated foods, and may inspect and audit all records, including financial records, and reports pertaining to the distribution of donated foods and may review or audit the procedures and methods used in carrying out the requirements of this part at any reasonable time. Subdistributing agencies, recipient agencies, and persons contracting to repackage, process, or prepare donated foods shall be required to permit similar inspection and audit by the Department.

(u) *Complaints.* Distributing agencies shall investigate promptly complaints received in connection with the distribution or use of donated foods, correct any irregularities disclosed, and promptly report each instance of serious irregularity to the Department. Distributing agencies shall maintain on file evidence of such investigations and actions. The Department reserves the right to make investigations and shall have the final determination as to when a complaint has been properly adjusted.

(v) *Demurrage.* Demurrage or other charges which accrue after a car or truck has been placed for unloading by the delivering carrier, or which accrue because placement of a car or truck is prevented, shall be borne by the distributing agency, except that demurrage or other charges shall be borne by the Department where such charges accrue because of actions by the Department and without the fault or negligence of the distributing agency.

§ 250.7 Disposition of damaged or out-of-condition foods.

Donated foods which are found to be damaged or out-of-condition and are declared unfit for human consumption by Federal, State, or local health officials, or by other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. Such instructions may direct that unfit donated foods be (a) sold in a manner prescribed by the Department with the net proceeds thereof remitted to the Department, (b) sold in a manner prescribed by the Department with the proceeds thereof retained for use in accordance with the provisions of § 250.6(k), (c) used in such a manner as will serve a useful purpose as determined by the Department, or (d) destroyed in accordance with applicable sanitation laws and regulations. Dispositions under the provisions of paragraph (b) of this section shall not apply to section 6 donated foods. Upon a finding by the Department that donated foods are unfit for human consumption at the time of delivery to the distributing agency and when the Department or appropriate health officials require that such donated foods be destroyed, the Department may pay to the distributing agency any expenses incurred in connection with such donated foods as determined by the Department. The Department may in any event repossess damaged or out-of-condition donated foods.

§ 250.8 Eligible recipient agencies.

(a) *Schools or school food authorities.* Schools or school food authorities which participate in the national school lunch program under part 210 of this chapter or the school breakfast program under part 220 of this chapter are eligible to receive donated foods under section 416, section 32, section 709, section 6, and section 14. Commodity-only schools or school food authorities responsible for the operation of school lunch programs of at least one or more commodity-only schools are eligible to receive donated foods under section 416, section 32, section 709 and section 14. Schools or school food authorities receiving donated foods under this part may use such foods for the purpose of training students in home economics, including college students if the same facilities and instructors are used for training both high school and college students in home economics courses.

(b) *Charitable institutions.* (1) Charitable institutions which maintain an established feeding operation on a regular basis as an integral part of their normal activities are eligible to receive donated foods under section 4(a). Charitable institutions receiving such donated foods shall not discriminate against any person receiving food because of race, color, or national origin.

(2) Private charitable institutions, other then hospitals, must be established for the purpose of providing continuing services in the same place without marked change and, at the Department's option, approved by a public welfare agency as meeting a definite need in the community by administering to needy persons.

(3) Charitable institutions which desire to receive donated foods under this part may employ food service management companies to conduct their feeding operations, provided that the charitable institutions enter into written contracts with such companies. Contracts between charitable institutions and food service management companies shall expressly provide that:

(i) Any donated foods received by the charitable institutions and made available to the food service management company shall insure only to the benefit of the charitable institution's feeding operation and shall be utilized therein; and

(ii) The books and records of the food service management company pertaining to the feeding operation of the charitable institution shall be available for a period of three years from the close of the Federal fiscal year to which they pertain for inspection and audit by representatives of the distributing agency, of the Department, and of the General Accounting Office at any reasonable time and place.

(c) *Summer camps.* (1) Nonprofit summer camps for children are eligible to receive donated foods under section 416, section 32, section 709 and section 4(a) if the distributing agency determines that the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of the camp and the characteristics of the children in attendance. Persons 18 years of age and over including program directors, counselors, and others who engage in recreational, educational, and direct administrative functions are considered as adults participating in the activities of a summer camp. Employees whose presence on camp premises is solely for the purpose of performing duties such as cooking, gardening,

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property maintenance, or similar support functions are not considered as adults participating in summer camp's activities. In no event are persons such as nurses, therapists, and attendants who perform professional, supervisory, or custodial services to be considered as adults participating in the activities of a summer camp if they perform services essential to the participation of mentally, emotionally, or physically handicapped children.

(2) Nonprofit summer camps for children which desire to receive donated foods under this part may employ food service companies to conduct their feeding operations provided that such services are contracted for on the same basis as is stated in paragraph (b) of this section.

(d) *State agencies.* State agencies which make distribution to needy persons in households are eligible to receive foods under section 416, section 32, section 709 and section 4(a), provided they serve households certified in accordance with a plan of operation approved by FNS, as required by § 283.5(a) of this chapter or with respect to households in the Trust Territory of the Pacific Islands, as required by § 250.6(e) of this part.

(e) *Disaster organizations.* Disaster organizations are eligible to receive donated foods under section 416, section 32, section 709 and section 4(a) for distribution to disaster victims. Distributing agencies making distribution to such organizations shall immediately inform the appropriate FNSRO thereof. Such organizations shall be eligible for the duration of the disaster, as determined by the Secretary, but they may make distribution of federally donated foods to households in areas where the Food Stamp Program is in operation only so long as the Secretary finds that the commercial channels of food distribution have been disrupted because of any emergency situation caused by a national or other disaster.

(f) *State correctional institutions for minors.* State correctional institutions for minors are eligible to receive commodities under section 210.

(g) *Service institutions.* Service institutions which participate in the Summer Food Service Program for Children under Part 225 of this chapter are eligible to receive commodities under section 416, section 32, section 709, section 6, and section 14.

(h) *Nutrition programs for the elderly.* Nutrition programs for the elderly are eligible to receive donated foods under section 416, section 32, section 709, and section 14. The distributing agency shall allocate foods to nutrition programs for the elderly within a State in accordance with the needs prescribed by the State Agency on Aging pursuant to the current regulations and guidelines of the Commissioner on Aging. If a nutrition program for the elderly employs a food service company to conduct its feeding operation, the provisions of paragraph (b)(3) of this section shall be applicable.

(i) *Nonresidential child care institutions.* Nonresidential child care institutions which participate in the Child Care Food Program under Part 226 of this chapter are eligible to receive donated foods under section 416, section 32, section 709, section 6 and section 14.

§ 250.9 Eligible recipients.

(a) *Needy persons in households.* Needy persons in households are eligible to receive foods donated under section 416, section 32, section 709, and section 4(a), provided the household is certified in accordance with the plan of operation approved by FNS, as required by § 283.5(a) of this chapter or, with respect to households in the Trust Territory of the Pacific Islands and the Northern Marianas, as required by § 250.6(e) of this part.

(b) *Disaster victims.* Disaster victims are eligible to receive commodities under section 416, section 32, section 709, and section 4(a).

§ 250.10 Special feeding programs.

In situations of distress in which needs for food assistance cannot be met under other provisions of this part, any distributing agency may, upon request to and approval by the Secretary, distribute donated foods to any institution, or to any association of persons engaged in charitable activities, for use in conducting special group feeding programs on a temporary basis for persons in need of such food assistance. The distributing agency, and any such institution or association, shall conduct any distribution under this section in accordance with such instructions as the Secretary may specify, and any such institution or association shall give to the distributing agency an assurance that feeding programs will be conducted in accordance with the instructions.

§ 250.11 [Reserved]

§ 250.12 Operating expense funds for distributing agencies.

(a) *Purpose.* The Department will make payments to distributing agencies to assist them in meeting operating expenses incurred in administering food distribution for needy persons in households. "Distributing agency(ies)" for the purposes of this section shall refer only to the distributing agency for the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas, and payment of administrative funds for food distribution to households on Indian reservations shall be made under the provisions of § 283.9 of this chapter.

(b) *Use of funds.* Distributing agencies shall make every reasonable effort to insure the availability of a food distribution program for needy persons in households residing in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas and shall assign priority, in the use of any funds received under this section, to accomplish that objective. Any remaining funds shall be used to expand and improve distribution to households. Such funds may be used for any costs which are not disallowed under Federal Management Circular 74-4 (a copy of which may be obtained from FNS) and which are incurred in distributing donated foods to households, including determining eligibility of recipients, except for the purchase cost of land and buildings. In no event shall such funds be used to pay any portion of any expenses if reimbursement or payment therefor is claimed or made available from any other Federal source.

(c) *Apportionment of funds.* The Department shall apportion the funds available for the purpose of this section for any fiscal year among distributing agencies which are responsible for food distribution programs to households. The amount of funds apportioned to each distributing agency shall be such amount as FNS determines is necessary to effectuate the purposes of this section. The apportionment of funds under this paragraph shall not be regarded as conveying to any distributing agency a vested right to any fixed amount of funds.

(d) *Notification of availability.* As soon as practicable after funds for the purpose of this section are made available, written notification of the amount of funds apportioned and the period for which they are available shall be given to the distributing agency for which such funds are available.

(e) *Payments of funds.* Upon receiving notification of the amount of funds available to it, each distributing agency shall advise FNS of the amount estimated to be required for the fiscal year. FNS shall, if it concurs, issue a Letter of Credit to the appropriate Federal Reserve Bank in favor of the distributing agency. The distributing agency shall obtain funds needed through presentation by designated officials of a Payment Voucher on Letter of Credit to a local commercial bank for

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transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. The distributing agency shall draw only such funds as are needed to pay claims certified for payment and shall use such funds without delay to pay the claims.

(f) *Agreements.* Each distributing agency which desires to receive funds under this section shall execute and submit to FNSRO a letter of acceptance agreeing to: (1) expend any funds received solely for the purpose of this section; (2) furnish reports under this part; and (3) amend the existing agreement between the distributing agency and the Department to incorporate contractual provisions required in Government contracts, including the Equal Opportunity clause (section 202 of Executive Order No. 11246 of September 24, 1965) and provisions required by the Contract Work Hours Standards Act (40 U.S.C. 327–330) and the Service Contract Act of 1965 (41 U.S.C. 351–357).

(g) *Records, reports, audits.* Distributing agencies shall (1) maintain, and retain for 3 years from the close of the Federal fiscal year to which they pertain, complete and accurate records of all amounts received and disbursed under this section, (2) keep such accounts and records as may be necessary to enable FNS to determine whether there has been compliance with this section, and (3) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records and accounts at any reasonable time. Distributing agencies shall submit monthly reports to FNS on Form FNS-60 concerning the obligations, expenditure and status of funds received under this section. In addition, distributing agencies receiving funds under this section shall submit any other reports in such form as may be required from time to time by the Department.

§ 250.13 Miscellaneous provisions.

(a) *Sanctions.* Any distributing agency which has failed to comply with the provisions of this part or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto, may, at the discretion of the Department, be disqualified from further participation in any distribution program. Reinstatement may be made at the option of the Department. Disqualification shall not prevent the Department from taking other action through other available means when considered necessary, including prosecution under applicable Federal statutes.

(b) *Embezzlement, misuse, theft, or obtainment by fraud of commodities and commodity-related funds, assets, or property in child nutrition programs.* Notwithstanding § 250.4(f) of this part concerning transfer of title to commodities, whoever embezzles, willfully misapplies, steals, or obtains by fraud, commodities donated for use in any program authorized under the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended, or any funds, assets, or property deriving from such donations or whoever receives, conceals, or retains such commodities, funds, assets, or property for his own use or gain, knowing such commodities, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to Federal criminal prosecution under section 12(g) of the National School Lunch Act, as amended. For the purpose of this paragraph "funds, assets, or property" include, but are not limited to, funds accruing from the sources identified in § 250.6(k) of this part, commodities which have been processed into different end products as provided for by § 250.6(n) of this part, and the containers in which commodities have been received from the Department. Distributing agencies shall immediately notify FNSRO of any suspected violation of section 12(g) of the National School Lunch Act to allow the Department, in conjunction with the U.S. Department of Justice, to determine whether Federal criminal prosecution under section 12(g) is warranted. Prosecution of violations under section 12(g) by the Federal Government shall not relieve any distributing agency of its obligations to obtain recovery for improperly distributed or lost commodities, as required by § 250.6(m) of this part.

(c) *Distributing agency requirements.* Distributing agencies may impose additional requirements for participation that are not inconsistent with the provisions of this part, except that this provision shall not apply to participation by households on all or part of an Indian reservation under Part 283 of this chapter.

(d) *Nondiscrimination.* Distributing agencies and recipient agencies are subject to the Department's regulations effectuating Title VI of the Civil Rights Act of 1964 (Part 15 of this title) to the end that no persons in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department.

(e) *Persons sharing common food facilities.* It shall not be deemed a failure to comply with the provisions of this part if recipient agencies serve meals containing donated foods to persons other than those who are eligible under this part, when such persons share common preparation, serving or dining facilities with eligible persons (needy persons, disaster victims, children) and one of the following is true:

(1) Such other persons are common beneficiaries with the eligible persons of the program of the recipient agency, or (2) such other persons are few in number compared to the eligible persons and receive their meals as an incident of their service to the eligible persons. Such other persons include, but are not limited to, teachers, disaster relief workers, and staff members.

Nothing in this paragraph shall be construed as authorizing allocation or issuance of donated foods to recipient agencies in greater quantity than that authorized for the assistance of persons eligible under this part, or as relieving the recipient agency of the responsibility for purchasing a volume of food which is at least adequate to feed all persons who are not eligible under this part.

(f) *Processing contracts.* Processing contracts entered into in accordance with § 250.6(n) of this part are public records and FNS will provide copies of such contracts to any person upon request. FNS also may use copies of such contracts in developing informational releases pertaining to the processing of donated foods by commercial or institutional facilities. FNS Regional Offices shall retain copies of processing contracts submitted by distributing agencies for a period of three years from the close of the Federal fiscal year to which they pertain and may review such contracts for the purpose of advising and counseling distributing agencies with respect to the provisions of such contracts. However, FNS assumes no liability with regard to the provisions of processing contracts or performance related thereto since FNS is not a party to such contracts and the contracts are not subject to FNS' approval.

(g) *Cash in lieu of commodities for nutrition programs for the elderly.*

(1) Any State Agency on Aging may, for the purposes of the programs authorized by titles III and VI of the Older Americans Act of 1965, as amended, elect to receive cash payments in lieu of all or any portion of

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the donated foods that would otherwise be received under § 250.4(b)(4) of this part during the Federal fiscal year.

(2) When such an election is made, it shall be binding on the State for that fiscal year, and the Secretary shall make cash payments to such State equivalent in value to the donated foods it otherwise would have received. Advance cash payments to such State shall be made for each Federal fiscal quarter by means of Letters of Credit issued by FNS through the appropriate U.S. Treasury Regional Disbursing Office or, where applicable, by means of U.S. Treasury checks in favor of the State Agency on Aging, based on the best data available to FNS at the time as to the number of meals to be served within the State during that fiscal quarter in nutrition programs for the elderly.

(3) The State Agency on Aging desiring to receive funds under this paragraph shall enter into a written agreement with FNS to: (i) Promptly and equitably disburse any cash it receives in lieu of donated foods to nutrition programs for the elderly after consideration of the needs of such programs and the availability of other resources, including any donated foods available under § 250.4(b)(4) of this part; (ii) establish such procedures as may be necessary to ensure that such disbursements are used by nutrition programs for the elderly solely for the purpose of purchasing U.S. agricultural commodities and other foods for their feeding operations; (iii) maintain and retain for 3 years from the close of the Federal fiscal year to which they pertain complete and accurate records of (A) all amounts received and disbursed under this paragraph and (B) the manner in which consideration was given to the needs and resources as required by paragraph (f)(3)(i) of this section; and (iv) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

(h) *Cash in lieu of commodities for child nutrition programs.* Where a State has phased out its commodity distribution facilities prior to July 1, 1974, such State may, in accordance with Part 210 of this chapter, elect to receive cash payments in lieu of donated foods for use in programs conducted under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended.

(i) *Program monitoring.* (1) Distributing agencies shall monitor and review their operations under this part to ensure compliance with the provisions of this part and with any applicable instructions of FNS.

(2) State Agencies on Aging which receive cash payments in lieu of donated foods in accordance with the provisions of paragraph (f) of this section shall monitor use of such cash after disbursement to nutrition programs for the elderly to ensure that the amounts so received are expended solely for the purchase of U.S. agricultural commodities and other foods for such programs.

§ 250.14 Where to obtain information.

Interested persons desiring information concerning the program may make written request to the following Regional Offices:

(a) New England Region, Food and Nutrition Service, USDA, 34 Third Avenue, Burlington, Massachusetts 01803, for the following States: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(b) Mid-Atlantic Region, Food and Nutrition Service, USDA, One Vahlsing Center, Robbinsville, New Jersey 08691, for the following States: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia.

(c) Southeast Region, Food and Nutrition Service, USDA, 1100 Spring Street, NW, Atlanta, Georgia 30309, for the following States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(d) Midwest Region, Food and Nutrition Service, USDA, 536 South Clark Street, Chicago, Illinois 60605, for the following States: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(e) Mountain Plains Region, Food and Nutrition Service, USDA, 2420 West 26th Avenue, Room 400-D, Denver, Colorado 80211 for the following States: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

(f) Southwest Region, Food and Nutrition Service, USDA, 1100 Commerce Street, Room 5-D-22, Dallas, Texas 75242, for the following States: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(g) Western Region, Food and Nutrition Service, USDA, 550 Kearney Street, Room 400, San Francisco, California, 94108, for the following States: Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Commonwealth of the Northern Marianas and Washington.

Dated: December 10, 1980.

Carol Tucker Foreman,

Assistant Secretory.

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Ms. WYNN. ASFSA is not yet ready to throw out the baby with the bathwater, for the commodity program is a valuable part of the school lunch program. USDA commodities allow for an efficient use of resources, particularly where on-site preparation of school lunches still exists, and it does exist in many schools. Most of the 94,000 schools participating in the national school lunch program are small; they are not in major cities. Where imagination is used USDA commodities can be stretched and thereby provide great value to schools. In addition, while there may only be a half-dozen bidders for various commodities at the national level there are far fewer in many local districts. And I think Mr. McClellan, the Hillsboro County school lunch director, can speak to that point.

STATEMENT OF WILLIAM E. McCLELLAN, DIRECTOR, SCHOOL FOOD SERVICES, HILLSBORO COUNTY, FLA.

Mr. McCLELLAN. Mr. Chairman, it has been my experience that we do solicit business from small businessmen, distributors in the Hillsboro County area. While six to eight companies are requested, we receive anywhere from one to four responses to these bids on the 80-plus percent that we do buy locally.

Some of them say that they don't want to bid on our product or our requests. Some of them say they cannot. Some of them say they have enough business already. And I just wanted to reiterate that we do solicit bids and try to use the small business as much as possible in our school food service program.

Mr. IRELAND. Thank you.

Ms. WYNN. ASFSA's support of the commodity program is also based on our judgment as to where the long-term political strength of the national school lunch program lies. As you know, the school lunch program like many other Federal programs is currently in the throes of a comprehensive reevaluation.

The Child Nutrition Amendments of 1981 sent to the Congress by the administration on April 3 calls for a cut in Federal support of approximately $1.9 billion in fiscal year 1982.

ASFSA views the administration's proposals as part of a multiyear evaluation of the role of the Federal Government in addressing future social needs. For a program like school lunch to survive in the long run, it will have to have as much political support as possible.

At the recent meeting with Secretary Block, referred to earlier, the commodity program was supported by the National Milk Producers Federation, the National Pork Producers Council, the National Turkey Federation, the United Egg Producers, the United Fresh Fruit and Vegetable Association, and the Georgia Peanut Commission. We do not see the advantage, therefore, in eliminating the commodity program and undercutting the support of U.S. agriculture.

In summary, ASFSA does not see the USDA commodity program as competing with the private sector. Rather, we see the school lunch program as helping two important parts of the private sector. Purchasing 80 percent of the food served in the program at the local level assists many local businesses; purchasing 20 percent through USDA supports U.S. agriculture and many small farmers and ranchers.

Mr. Chairman, the USDA commodity program was extensively investigated by the Committee on Education and Labor in the 96th Congress. Hearings were held on H.R. 6841, the Commodity Letter of Credit Act, which was the predecessor to the pending H.R. 3077.

The Subcommittee on Elementary, Secondary, and Vocational Education defeated H.R. 6841 9 to 7 on April 30, 1980. In full committee a fall-back position was offered to allow each school district the option of using a letter of credit. That amendment was defeated on a tie vote, 18 to 18.

As a result of the protracted debate and the close votes in the Education and Labor Committee, Public Law 96-528, enacted just 5 months ago, appropriated $2 million for a 3-year pilot project study comparing all cash assistance, a letter of credit system, and the commodity program. ASFSA believes that the pilot project should be allowed to go forward uninterrupted. We will all be in a much better position to make a judgment on the commodity program after that study is completed.

Thank you very much for the opportunity to appear. We would be pleased to respond to any questions you might have.

Mr. IRELAND. Thank you, Ms. Wynn.

Before we start, Mr. Weber, do you have any opening comments you want to make?

Mr. WEBER. No, I don't. I may have some questions.

Mr. IRELAND. Ms. Wynn, to what extent, if any, and this is for all three of you to answer, to what extent if any, do you believe that there is waste or inefficiency in the present system? You alluded to that in your testimony.

Ms. WYNN. I believe we have identified in our study those areas where we think there may be waste. These areas include the products that are purchased and the packaging that they come in.

I don't think that the support that we have for the commodity program in our association, and it is definitely the majority support, indicates that there is waste to the extent that we should be considering drastic changes. We should be considering and constantly working upon improvements in the program, but I couldn't give you a percentage of waste. I don't see much waste in my own district, and I'm sure Mr. McClellan doesn't in his district.

I can't speak for the whole country but I do believe that has been overemphasized.

Mr. MCCLELLAN. Well, I can respond to that particular question as far as commodity waste is concerned. We received over $2.6 million in Hillsboro County in commodity product that was usable. We lost through waste or infestation right around $2.6 million. The rest of the product was excellent and in good condition when we accepted it.

Mr. IRELAND. Are you aware of any waste and inefficiency in transportation to Hillsboro County or waste when it gets there?

Mr. MCCLELLAN. There is some waste that is inevitable when they are unloading LCL's—less carload lots—because they break batch. But I see that as being minimal also. And at this time I'd like to give you something else for the record.

I have done a study of the commodity unit prices that the USDA has sent to us on various items, and also the bid prices that I have received with the small businesses on these same items, because at various times we integrate these commodities into our menus. Various items we do not get them because they are in transit or something. We have the opportunity then to buy them from the local distributor and we have bid prices here showing their bid and the actual cost to us. May I put this in, sir?

Mr. **Ireland**. Yes; we would be delighted to have it in the record.

[The information referred to follows:]

HILLSBOROUGH COUNTY PUBLIC SCHOOLS
P. O. BOX 3408 TAMPA, FLORIDA 33601
SCHOOL ADMINISTRATIVE CENTER
901 EAST KENNEDY BLVD.
TAMPA, FLORIDA 33602
813-272-4000

SUPERINTENDENT OF SCHOOLS
RAYMOND O. SHELTON

ASSISTANT SUPERINTENDENT FOR
ADMINISTRATION AND OPERATIONS
PAUL R. WHARTON

GENERAL DIRECTORS
PETE B. DAVIDSEN, AREA I
JAMES D. RANDALL, JR., AREA II
NELLIE B. MAY, AREA III
DWIGHT M. NIFONG, AREA IV

DIRECTORS
JOHN W. HEUER, PUPIL
ADMINISTRATIVE SERVICES
WILLIAM E. McCLELLAN, SCHOOL
FOOD SERVICE
HAROLD O. WEESNER,
ADMINISTRATION

U.S.D.A. COMMODITY PRICES VS. SCHOOL BID PRICES

ITEM	COMMODITY UNIT PRICE	BID UNIT PRICE
Apple Juice	.74	.85
Applesauce	1.66	2.03
Apples, Fresh	.20	---
Apricots	2.98	3.25
Beans, Cnd. Small Red	1.61	1.79
Beans, Pinto	1.61	1.82
Beans, Vegetarian	1.48	----
Beans, Green Cnd.	1.44	1.54
Beef, Frozen Ground	1.35	1.22
Butter	1.52	----
Cheese, Moz.	1.48	No bid
Cheese, Cheddar	1.38	-----
Cheese, Process	1.38	1.69
Chicken, Breaded Fzn.	.82	No bid
Chicken, Cut Up Fzn.	.54	.89
Corn, Cnd.	1.65	1.88
Corn Meal	.15	.26
Egg Mix	1.29	2.02
Flour, A/P	.13	.16
Flour, Whole Wheat	.14	----
Grits	.13	.27
Macaroni	.30	.52
Milk, Non Fat Dry	.93	1.11
Oats	.19	----
Peaches, Cnd.	2.28	2.58
Peanut Butter	4.23	No Bid
Peanuts Roasted	2.56	----
Peanut Granules	2.28	----
Pears, Cnd.	2.42	2.89
Pears, Fresh	.25	----
Peas, Cnd.	1.56	1.79
Peas, Blackeye, Cnd.	1.61	1.64

ITEM	COMMODITY UNIT PRICE	BID UNIT PRICE
Peas, Frozen	.29	.45
Pineapple, Canned	2.40	3.07
Pork, Canned	2.03	1.12
Pork, Ground Frozen	1.16	----
Potato Rounds	.30	.41
Potatoes, FFF	.24	.47
Potatoes, Dehyd.	.33	.38
Poultry, Canned	2.18	4.95
Prunes, Dried	.68	----
Raisins	.62	.97
Rice, Brown	.26	----
Rice, White	.25	.27
Salad Oil	.59	.73
Shortening	.46	.49
Spaghetti	.30	.52
Tomato Catsup	1.77	2.37
Tomato Paste	2.38	2.63
Tomatoes, Canned	1.57	2.16
Turkey Rolls	.90	----
Turkey Roast	1.50	----
Turkeys Whole	.79	.79
Vegetables, Mixed Fzn.	.24	.49

Mr. **Post**. Mr. Chairman, in my experience as State director I have responsibility for the distribution of the commodities. And it appears that if there is waste, it is because perhaps at times there are maybe more items of purchase than realistically needed by the schools. And we identify that as a problem in the task force report. Perhaps there ought to be a better way to determine needs of the particular schools.

We also found from the study that the differences between the delivery systems in the States may have some bearing on waste. So it's more the mechanics of the program than it is the concept or the program itself. And we identify these as problem areas that we think could be remedied and make the program more responsive to the needs.

Mr. **Ireland**. Would there be any reason to challenge the validity of that 92 percent when it appears that for one reason or another these people feel they have to take it. They have no alternative but to take it.

So is the 92-percent acceptance really a valid figure? In other words, the reasons for rejecting it are very limited. They are going to take it anyway. They almost have to.

Mr. **Post**. The study did bear that out, sir. There was fear that if they did not take it at the time there may not be something to substitute for that which they perhaps did not find as acceptable. But, yes, I would answer positively to that. They did take it because they felt there wasn't a substitute or there wouldn't be other commodities available so they would use them.

Mr. **Ireland**. So then it isn't a very meaningful figure.

Mr. **Post**. I think it is pretty meaningful, but these exceptions were noted in there.

Mr. **Ireland**. Mr. McClellan, you mentioned the number of bids that you received in the 80-percent bracket and the number of offers from six or eight eligible people?

Mr. **McClellan**. Yes, sir. We have two major distributors out of six or seven in Hillsboro County and the Polk County area that would consistently bid on our product. That is two companies: Critic Foods and Food International. Kraft dropped out. E. J. Keats dropped out. A lot of these people just said they couldn't handle the business requirements for that area.

Mr. **Ireland**. We find that many of these small businesses drop out because of inefficiency. They will enter into a contract that can be canceled by your school system at any moment and they gear themselves up to provide the food and then out of the blue, in comes carloads of the same commodity, and you cancel their contract.

There are not too many businesses large or small that are going to continue to play that ball game. Is there any other reason associated with the commodity program that keeps these people from bidding?

Mr. **McClellan**. I can only speak from personal experience, but in my personal experience I agree with you to a certain degree. We use such a clause. But very often we specify what we think we will need in that bid period, including the commodities expected, so that they know beforehand the amounts that we are going to purchase.

Mr. **Ireland**. I don't think anybody had any problems with items arriving ahead of time. It is the continuous poor distribution.

Mr. **McClellan**. Well, we haven't had that problem, Mr. Chairman. We have the commodities disrupting the flow of the items we wanted to have bid.

Ms. **Wynn**. May I comment?

I don't think we have either, Mr. Chairman. On our bids we give an estimate of the number of the amount of foods that we need to purchase and we don't have that so-called jump-out clause. We feel we do attempt to purchase those items that we had said to the vendor that we would be purchasing. And our own bid history, our last bid we had one grocery bidder, three meat bidders, and two frozen foods. We do everything but beg them.

Mr. **Ireland**. There are a lot of indications that the commodity program destroys initiative and makes it almost impossible for small business people to bid.

You know, once burnt they are either out of business or they just learn not to play the game, and that is part of the serious concern.

Mr. Stenholm, any questions at this point?

Mr. **Stenholm**. No questions, other than I would be interested in. I believe you mentioned you had some study or some additional information. Since I do serve on the Agriculture Committee as well as the Small Business Committee I am also interested in the commodity program from the agricultural production sector. And you make mention of the fact that purchasing 20 percent through USDA supports U.S. agriculture. I think this is taking a real beating right now.

One of the facts that I think needs to be brought out is the difficulty we have of fine tuning the food production factory of this Nation. You can't just fine tune down to the gnat's bristle how many pigs the sows are going to raise, or how many turkeys, or how much beef, or how much it is going to rain in various sections of the country. And we end up being blessed in this country with surpluses of food at different times.

Often this becomes a real problem budgetarywise, as we are now finding, particularly in our dairy program right now, that we do have short-term surpluses that are creating real problems. But isn't it wonderful that that is the problem we have in America, that we have the problem of too much food rather than the problem so much of the world has.

I commend you for your testimony. And I sincerely would say, Mr. Chairman, from the standpoint of the testimony I have already received, I am going to have to excuse myself in just a few minutes. We have a markup going on now on the farm bill, which is going to determine whether we continue to have problems of too much food or not.

I think it is very imperative on all of us who deal with nutrition, from the standpoint of the school lunch program, that we do cooperate as much as we can, that we continue to seek solutions to the problems which, again I commend you for your testimony, and, Mr. Chairman, for holding these hearings. I think that you folks are here at a real timely point now: the fact that we are marking up a new farm bill and much of what we hear now might be very helpful to us in some of the other deliberations.

Mr. **Ireland**. Thank you.

Mr. Weber?

Mr. **Weber**. Well, I want to thank all three of you for being here today and testifying in the interesting way that you have.

You mentioned that the USDA must improve its efforts to deliver the commodities in proper packaging and that sort of thing. Also at the same time you said that the present system does allow for an efficient use of resources.

You know a couple of weeks ago, before we went on recess, we heard a number of witnesses say the USDA distribution system is horribly inefficient. And apparently you have not been experiencing the problems they have, at least not to the degree that the other witnesses have experienced them.

I might just go over some of the problems and let you be thinking of the ways in which we could improve the system, the steps that we might take. First of all, a number of people objected to the quantity, the packaged quantities. A 50-pound box of frozen hamburger, tiny boxes of raisins, whereas they would like these to be delivered in bulk.

A number of the witnesses testified that they were receiving undesired products, turkey roll that the students don't like and that they won't eat, contributing to immense amounts of plate waste and food just being dumped in the garbage cans and that sort of thing.

Not efficient, obviously, not the way we would like to utilize the turkey, which children will eat but they don't like it in turkey roll.

The number of people testified about the extremely wasteful shipping and processing costs. A product of raw material in Wisconsin shipped down to Kansas for one-step processing and then shipped someplace else for another step and then shipped back to the original warehouse and that kind of thing. It is very wasteful.

A number of people testified about the fact that they had the expenses of warehousing these commodities because they sometimes suddenly had commodities thrust upon them so that they would have to go to the expense of warehousing which would impact their budget

A number of people expressed resentment over the disruption they experienced in their planning and contractual arrangements, which we have alluded to in earlier testimony, when suddenly they would receive a large quantity of a commodity which they had already contracted to purchase in a local business.

As Mr. Ireland has pointed out, this kind of thing has a very chilling effect on small business in the community. Small businesses don't want to compete for a contract that can be canceled in this fashion.

Now, I have no objection to proceeding with a pilot program. I don't know what that is expected to achieve or how well that is proceeding at the present time.

What step could we take immediately? What steps have been tried with the USDA to improve or eliminate these practices that we all have to agree are not wise, not efficient, and contribute to a great deal of waste?

Ms. WYNN. Congressman, in talking about the testimony where we said that they needed to look at packaging, it really depends. We have different delivery systems in the schools. Some schools do scratch cooking, as we call it. Everything is made from a recipe. Some school systems have central kitchens. In Ohio you have some of those situations where they can't use the same kinds of products, the same packaging that we can in the kitchen where we are going to be cooking from scratch. They need more convenience-type portion sizes, and things like that. Those are the things that we have outlined in this study.

We are more flexible where we do on-site preparation. We can get better use of commodities. I believe that was the context in which that statement was made. But we have addressed some of those problems. We have met with Secretary Block and with Assistant Secretary-designate Mary Jarratt, and have discussed exactly those things that you have outlined. But the majority of our 65,000 members, without a doubt, support the commodity program. They want to see improvements but they support the commodity program. They do not want to see it diminished, because we look upon it right now as perhaps the only basic subsidy we are going to have in this program.

Mr. WEBER. Why would they not support a program that permitted them to order those commodities with a voucher system or with cash?

Ms. WYNN. Well, I realize that Congressmen Goodling and Ford feel that they have addressed the paperwork problem. We don't feel that they really have. We still see problems in that area.

The other thing is that we feel that Mr. McClellan's price list right here will show you that we pay more at the local level. It is going to cost us more with a voucher or cash or whatever is used to purchase at the local level.

The other thing is that it is difficult to get those local people that can supply, to bid and supply the food in the quantities that we need it. It is a lot of business. It is a lot of business, and we are not just talking about small districts who are going to have the problem anyway. We are talking about large districts who still have a difficult time in having people bid on a very large amount of food and deliver it to the schools on time. We have the same problems with purchased food that we have with commodities.

Mr. Ireland. In the pilot program that has taken place over a 2½-year period, in every instance there were savings on cash in lieu of commodities ranging from a minimum of 5 percent to over 15 percent. There was no example of cash in lieu of commodities that didn't improve economic efficiency.

Ms. Wynn. May I comment on that?

Mr. Ireland. Sure.

Ms. Wynn. Yes, but we also realize that those eight schools were volunteer schools who basically have preferred cash or a letter of credit for some time.

We also have in the record of Education and Labor, a memorandum urging the vendors in those particular areas to give those school districts the best prices, the best service that they can because this was the opportunity they would have to prove that cash was better. In short, we don't feel that was a valid study.

The Department doesn't feel it is a valid study, and that is why we are doing another study.

Mr. Ireland. We are aware that there was no difference between rural and urban. There were all manner of school districts involved.

Ms. Wynn. I will leave this for you, too, Congressman. I think you will see why we question the validity of that statement.

Mr. Ireland. We have heard testimony, as you are aware, from a number of members of your organization, who stepped forward and said: "I don't believe in the party line. We would rather have cash in lieu of commodities." There is a feeling here that a lot of these people have been afraid to come out and say what they think.

In fact, we understand that there are several past presidents of your organization who now support this.

Ms. Wynn. There are two, yes.

There are people who have a very strong commitment to cash or letter of credit, and they are very fine members of our association, and they have a right to disagree with us on certain issues. But they are the same few people.

Last year when we testified before Education and Labor, we happened to be on the same day they were. And there was the question as to whether or not our statement really represented the membership of this association. The president of the association happened to be there and she polled the executive board. The executive board is 16 members that represent every region of the country, every section of our association, single unit people, and major city directors. And the vote came back unanimously, or I believe there was one abstention. I'm not sure. There were either 15 or 16 wholeheartedly in support of the commodity program.

In addition to that, we cannot take these positions without really being responsive to those members. We send out surveys, questionnaires, not only of the two or three or five or six people who have the expertise and the wherewithal to get to Washington and make their statements but those people who can't. There is no doubt in my mind that we are representing the vast majority of our members who would like to see some improvements in the program. I'm not saying they want to stay with the status quo, but they certainly do not want to go to a cash option or letter of credit which they perhaps fear.

Mr. IRELAND. The fear issue is something that personally concerns me. If these people feel that by voicing an opinion about the inefficiency and waste and the money that they could save in the program and then they do not prevail, they are at a strong disadvantage vis-a-vis the bureaucracy of the USDA.

Ms. WYNN. Congressman, our association is a volunteer association. There are no kinds of——

Mr. IRELAND. I don't mean from your association. They are concerned about their school district's position vis-a-vis the USDA if they come forward and say: "You guys are not running your show well." Then they are penalized by things like a 5-year supply of rice and carloads of applejuice.

Ms. WYNN. Those same people, if they are afraid, have the opportunity on a questionnaire that comes straight to our association, that their school boards would never have to see, to give their own personal opinion of the commodity program. And that is basically how Mr. Post got his information. It was an extensive survey, a cross section of the country, where they could say what they want.

Mr. IRELAND. I'm asking you these questions because we have this other testimony. If you can't respond to it——

Ms. WYNN. When I talk about fear, I am talking about the fear of what is happening to money as far as our programs are concerned.

Mr. IRELAND. Well, of course, that's why we are all here. When there is substantial waste, there is money that could be going elsewhere.

Many school boards would like to go to cash and they don't believe the same as you do about this issue. Could you address, for Broward County and Hillsborough County, your experiences. I understand that the Broward County School Board passed a resolution saying they want to get out of the commodity program.

Mr. MCCLELLAN. Hillsborough, in my experience, and I have been there 12 years, has always accepted the commodity distribution program as being to the advantage of the school board. We have set up in our own system distribution. And even with the prices I have there and the cost of distribution, it is less cost per unit than what the bidders give me.

As far as cash in lieu of commodities, I am fearful of that, Mr. Chairman. It's like what they are doing to cash now. What is going to happen to the commodities or the farm surpluses? Are they still going to be utilized?

Mr. IRELAND. I would say that would probably not be addressed as a function of a school district. That should be a function of some other element of our economy, is that not correct?

Mr. MCCLELLAN. That is correct, but——

Mr. IRELAND. Ms. Wynn in your testimony you said you regarded the purchase of 80 percent of the food served in the program was used to assist many local businesses, and that the 20 percent was to support U.S. agriculture.

Ms. WYNN. I think that is one way of looking at it.

Mr. IRELAND. Well, wouldn't we be able to say that 100 percent supports U.S. agriculture. The whole program supports U.S. agriculture.

Ms. WYNN. Right.

Mr. IRELAND. I'm sure you wouldn't want your comments to be misconstrued in the way it sounds.

Ms. WYNN. I'd like to comment on your mentioning my county. First of all, I want to make it very clear that I am here today representing the American School Food Service Association. When you talk about fear, I think it is very interesting that last year my school board was one of the school boards in the country singled out for a direct contact to explain the virtues of the voucher system and then did, without input from our food service department, adopt a position to support that.

That's not necessarily the position of the current administration even above the food service department. Since that time four of our school board members have not been reelected or have gone to other positions. And I really don't know what the position of my board is now, because I am not here representing them. I am here representing American School Food Service Association.

I have given you one or two incidences of what I see in the 10th largest school district as a food service director. But as far as the position of our school board is concerned, they would have to be asked.

I do know that most school boards like cash. I also know that cash can be used for things other than food.

Mr. POST. Mr. Chairman, the Wisconsin School Food Service Association, at a legislative conference last fall, took a survey and it asked three questions: whether to continue to receive USDA-donated foods under the current distribution program; whether to receive a letter of credit, which they could draw against to purchase only the kinds and amounts of food specified by the USDA; or whether they wanted the flexibility to purchase the kinds of foods they determined essential for the program.

There were 257 attendees from that group and 179 responses; 162 wished to continue on the donated food program as their first choice, 3 asked for a letter of credit, and 11 asked for cash.

Mr. IRELAND. These were food service operators?

Mr. POST. They were business managers, food service operators and some administrators.

Mr. IRELAND. My question was about the school board.

Mr. POST. To my knowledge, I don't believe there were school board members there, school administrators were there.

Mr. IRELAND. One last mechanical question. The figures on the USDA that you have; are they current?

Mr. MCCLELLAN. They are as current as I have; yes, sir.

Mr. IRELAND. Both the bids and the other figures?

Mr. MCCLELLAN. Mr. Chairman, they are taken from the current bids of February on this year, 1981, and also the current price list submitted to us by the U.S. Department of Agriculture.

Mr. IRELAND. And the bids from the private sector?

Mr. MCCLELLAN. February 1981 on, the same area of time frame.

Mr. IRELAND. Mr. Smith, do you have any questions?

Mr. SMITH. Well, I just wonder how many local school boards understand the section 32 program and where these commodities come from and the purpose behind them?

Ms. WYNN. One of the interesting things in Mr. Post's study is the fact that we feel that the commodity program hasn't really been sold to the public, to the schools, or to anybody. So I would say it is probably very limited if at all.

Mr. SMITH. I have the feeling that perhaps 20 years ago school districts at the time the program started and shortly thereafter, they pretty well understood, I think, where the commodities came from. They had heard, at least, of section 32 and how we acquired commodities that were not to be put into the market in competition with others at a time when there was a surplus of that commodity in the market.

But I just have the feeling that it has been so long since we have had direct distribution for welfare and for other purposes that maybe they just don't realize that there is another reason for having this food other than just to distribute to school districts.

Ms. WYNN. I think you are absolutely right, and it is addressed in here and will be brought to the attention of the Department.

Mr. SMITH. Perhaps a little education along that line might help.

Well, I thank you for your testimony. I think it is good to hear all the sides of this. I do think, however, this should be improved. One thing I think they could have been doing down there for years, and it is terribly difficult to get them to do it. We worked for years to try to get them to do it with regard to carloads of grain—that is, that you can sell in one location and buy the same volume in another location sometimes and move the product much cheaper and easier than physically handling the product. And they just simply don't seem to want to do that.

Do you think something could be done about that?

Ms. WYNN. Well, we are hoping. We do think it has been a disjointed operation. And maybe now if they get together, there appears to be a strong commitment on the part of the Department.

Mr. SMITH. This is a matter of administration, and they ought to be able to sell a certain volume of cheese in Wisconsin one day and buy the same volume in California the same day, if it is cheaper to do that and they can get it there the day they want it and so forth, instead of physically shipping the product.

That is all I have.

Mr. IRELAND. Thank you, Mr. Smith.

Ladies and gentlemen, thank you very kindly. We appreciate your testimony.

Congressman Coelho, we are happy to have you here today.

TESTIMONY OF HON. TONY COELHO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COELHO. Thank you, Mr. Chairman.

First of all, I would like to start off and compliment Mr. Smith. You asked the right question as a matter of education. I think we have a tendency here for people to take a program that has served a dual purpose to begin with and to feel now that it is only supposed to serve one purpose.

The purpose of the program is still there. It is a dual purpose, and I think that your committee could do a great service, Mr. Chairman, in trying to educate the Department of Agriculture, that what we intended when we put the law into effect many years ago is not just to sit there and try to do one thing. At times, I think we lose our purposes.

I would like to comment also, Mr. Chairman, if I may, on Ms. Wynn's testimony. I thought she was right on target, and she was rather courageous in some of her comments.

I have a little statement here that is a legislative bulletin the National Institutional Food Distributor Association puts out. The statement that they have in there, they say, in effect, that:

> At long last, our struggle to try cash in lieu of commodities in the Nation's schools is beginning. It is vital for us to get all the information that we can get concerning these pilot school districts. We certainly don't want to neglect our responsibility to see that these pilot projects are given every chance to be successful. If one is in your area, be sure and let them know that you will do everything you can to help them. Let's give them the best service, the best quality, the best prices, and the most cooperation they have ever seen.

[Full text of legislative bulletin follows:]

LEGISLATIVE BULLETIN

On Tuesday, May 16, at 10:40 a.m., the U.S. Department of Agriculture released the following bulletin:

U.S.D.A. to study effect of replacing schools' donated foods with cash payment

Washington, May 16—Two states and eight school districts have been selected to participate in a study on replacing the schools' donated foods with cash payments, Assistant Secretary of Agriculture Carol Tucker Foreman announced today.

"The purpose of the study is to analyze the effect on the schools' child nutrition programs when the U.S.D.A. donated foods, or commodities, are replaced with cash payments," Ms. Foreman said. Programs affected by the change in the participating schools are the school lunch and breakfast programs and summer food program.

The study has two components. One will compare data from Kansas, the only state currently getting cash in lieu of commodities, with data from a state continuing to receive commodities. The second component is an in-depth look at selected pilot projects that would be switched to cash for the purposes of the study.

The study is being done in accordance with a provision of Public Law 95-166, enacted last November. Areas to be covered by the study are: Administrative feasibility and nutritional impact on the change; cost impact, if any, at federal, state, and local levels; impact on quality of food served; and the impact on plate waste in the child nutrition programs.

In fiscal year 1978, the national school lunch and breakfast programs and the summer food program will receive approximately $578 million in U.S.D.A. donated foods and $2.1 billion in federal cash payments. They are also supported by $1.3 billion in children's payments for meals and by $970 million in state, local, and other contributions.

"The Department will begin collecting data in participating school districts on May 8," Ms. Foreman said. "This initial data collection is expected to be completed by early June. Beginning July 1, participating school districts will no longer receive their usual shipments of donated foods. Instead, these participating school districts will receive cash payments in lieu of commodities for the entire 1978-79 school year."

A number of school districts responded to U.S.D.A.'s request for volunteers to serve as pilot projects (U.S.D.A. Press Release 1091-78). The eight districts selected to participate are:

Oakland Unified School District, Oakland, CA; Independent School District of Boise City, Boise, ID; St. Louis Public Schools, St. Louis, MO; Dayton Public Schools, Dayton, OH; Williamsville Central School District, Williamsville, NY; Washington Public School District, Chipley, FL; Riceville Community Schools, Riceville, IA; Jonesboro Public Schools, Jonesboro, AR.

The states which have been selected to participate in the state comparison study are Kansas, which currently receives cash in lieu of commodities, and Colorado, which distributes U.S.D.A. commodities to schools. In addition to the statewide data, local information will be obtained from school districts in Hutchinson, Kansas, and Greeley, Colorado.

At long last our struggle to try cash in lieu of commodities in the nation's schools is beginning. It is vital for us to get all the information that we can get concerning these pilot school districts. We certainly don't want to neglect our responsibility to see that these pilot projects are given every chance to be successful. If one is in your area, be sure and let them know that you will do everything you can to help them. Let's give them the best service, the best quality, the best prices, and the most cooperation they have ever seen.

Also, please let us know your honest assessment of how the program is being received by the personnel that will be operating the pilot programs. We already know that some of these feel they can operate more efficiently with cash, but we are not sure about some of them.

Let's don't win the battle but lose the war!

Mr. COELHO. Now, let me tell you, if they were to move over to a cash program, I wonder how long that attitude would persist. I wonder how long they would try to give them the best prices and most cooperation. I have a tendency to feel that once they got what they wanted they would go back to getting the most prices that they can as opposed to giving the best prices to the schools, et cetera.

I think that when you do these studies, it is important that the studies also reflect what is really going on in a lot of other programs where they have been able to take over for supposedly all these very nice reasons.

Mr. Chairman, the reason I am here today is that I would like to submit a record statement from one of my constituents, the California League of Food Processors, which brings a convincing response for retaining the direct commodity procurement program.

The league statement is also supported by the California Cling Peach Advisory Board, whose members would be severely impacted if the direct commodity purchase program was abandoned.

Briefly, I believe that we should continue USDA's commodity program for three reasons:

One, procurement by a central purchasing program allows USDA to buy the highest quality product and in required sizes at the lowest prices. These efficiencies of scale are not possible under a voucher or cash-out system. Only through direct commodity purchasers can a seasonal packer plan in advance. And that is very critical with perishables, Mr. Chairman.

Two, to provide a precise style of product and the exact packing medium required by the program. This precise planning would not be possible if a processor had to deal individually with thousands of school districts across the Nation. By suiting purchasing practices to this situation, USDA has been able to obtain from the California canning industry large quantities of fruits and vegetables packed to its specifications at the best prices possible.

Three, the surplus commodity removal program is a vital source of market stability to nonsupported crops. Currently the California fruit and vegetable canning industries are experiencing a serious surplus situation. Despite the voluntary reductions, the outlook for next year is for yet another bumper crop. Therefore, it is vital to the California Fruit and Vegetable Canning Institute and thousands of small family farmers who grow the crops that USDA continue its surplus removal and purchase program.

That brings me back to the point of Mr. Smith earlier about the dual purpose of these programs. It is not just a commodity distribution program for these schools. Now I heard, Mr. Chairman, as you know I have been here now for 16 years, either as a staffer or as a Member, and I have been involved in this program for a long, long time. I hear complaints about, well, this school district got thousands of little small boxes of raisins, which happen to be all produced in my district. They got all these thousands of little boxes of raisins. That it is inefficient for the school, then, to have to open each one of those little boxes and be able to put them into some type of a recipe where they have mass production of them.

They don't have to purchase little boxes of raisins if they don't want to. We can produce raisins in large quantities if they want. I really think that the issue here, as Mr. Smith has pointed out, is that it isn't working maybe in some areas and it doesn't mean throw out the baby with the bath water. You get in and find out where the improvements need to be made.

Ms. Wynn said there are some problems. That is correct. Let's get in there and force USDA to do the right thing to make this program function and make it work.

I don't sit here and try to defend any program and say it can't be improved. It can be improved. If you talk to the commodity people in my State that are heavily involved in this program, the commodity people would suggest to you how it can be improved. Our problem is that USDA hasn't been doing, I think, the job that should be done to improve the program to serve the dual purpose that Mr. Smith talks about.

We can make it a successful program. We can cut down on the waste and the fraud that does exist. But you've got to have people who support the program. One of the problems that we have been having is that people who were in the Department, and I am sorry to say under an administration that I supported, that were in the Department and were opposed to the program and wanted to do away with it. If you have people in charge of the program who want to do away with it, they are going to make it as sloppy as possible and make it not work.

What we need is people there who understand the program, want to make the program work and to make it efficient and make it go forward. If we could get those type of people involved in the administration and then work with the commodity people and work with the school lunch people, you could have a very successful program.

It has been successful in the past. The problems that we are talking about are recent problems. We can turn that around if we want. We don't have to turn to a cash or a voucher program that in my opinion does not serve the dual purpose of this program.

Thank you, Mr. Chairman. I appreciate the opportunity to be here.

[Mr. Coelho's prepared statement with attachments follow:]

PREPARED STATEMENT OF HON. TONY COELHO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, Members of the Subcommittee, good morning. Thank you for the opportunity to appear before you. I will make my remarks brief.

I would like to submit for the record a statement from one of my constituents, The California League of Food Processors, which brings up convincing reasons for retaining the current direct commodity procurement system. The League's statement is also supported by the California Cling Peach Advisory Board, whose members would be severely impacted if the direct commodity purchase program was abandoned.

Briefly, I believe that we should continue USDA's commodity purchase program for three reasons:

1. Procurement by a central purchasing program allows USDA to buy the highest quality products in the required sizes at the lowest prices. These efficiencies of scale are simply not possible under a "voucher" or "cash-out" system;

2. Only through direct commodity purchases can a seasonal packer of perishable fruits and vegetables plan in advance to provide a precise style of product in the exact packing medium as required by the feeding program. This precise pack planning would not be possible if the processor had to deal individually with thousands of school districts across the nation. By suiting purchasing practices to this situation, the USDA has been able to obtain from the California canning industry large quantities of fruits and vegetables packed to its specifications at the best prices possible;

3. The surplus commodity removal program is a vital source of market stability to non-supported crops. Currently, the California fruit and vegetable canning industry is experiencing a serious surplus situation in canned apricots, fruit cocktail, cling peaches and pears. Despite voluntary acreage reductions, the outlook for next year is for yet another bumper crop. Therefore, it is vital to the California fruit and vegetable canning industry and the thousands of small family farmers who grow the crop that USDA continue its surplus commodity removal and purchase program.

Thank you.

PREPARED STATEMENT OF THE CALIFORNIA LEAGUE OF FOOD PROCESSORS

INTRODUCTION

The California League of Food Processors (formerly the Canners League of California) is a non-profit unincorporated trade association based in Sacramento whose 34 members process 40 percent of the fruits and vegetables, 80 percent of the tomatoes, and 100 percent of the olives in the United States. League members pack and ship over 300 million cases of fruits and vegetables each year with a total value of over $2.5 billion. The League offers guidance to the California food processing industry, and represents its membership in legislative and public affairs matters. As the new name implies, the League is currently expanding its membership to include not only canners, but processors of other commodities as well.

The California fruit and vegetable canning industry strongly supports the centralized purchasing procedure currently followed through the US Department of Agriculture. This program has brought to the school nutritious, high quality commodities at the lowest available prices. In addition, it has provided an outlet for surplus commodities which has proven overtime to be a great market stabilizer. Any move which would disrupt this long established and efficient program which USDA has administered so effectively, would prove disastrous not only to the agricultural community, but to the millions of children fed nutritious meals through this program each day.

It is our position that the present centralized purchase system offers many advantages and savings which the proponents of the "cash-out" or "voucher" approach have seen fit to ignore. We doubt seriously that canned fruits and vegetables can be delivered under a cash or voucher system at costs below those offered under the present direct purchase system. USDA is currently in the midst of a 3 year, $2 million pilot project designed to evaluate the present commodity program and compare its cost effectiveness with the "letter of credit system" and the "cash-in-lieu" alternative. Presently, there are no test results in hand which can confirm what the proponents of the "cash-out" or "voucher" system claim. In addition, there is no guarantee that the "best prices" offered during the trial period would not escalate rapidly once a change to a "cash-out" or "voucher" system has been accomplished. We believe that no final determination should be made until the results of this pilot study have been thoroughly analyzed.

As set forth in the National School Lunch Act of 1946, one primary goal of the legislation is to provide an outlet for surplus commodities and to prevent waste of the Nation's agricultural abundance. Currently, the California canning industry is in a serious surplus situation involving canned apricots, fruit cocktail, cling peaches and pears. In spite of programs like the California Canning Peach Association voluntarily eliminating 2000 acres of cling peaches, the outlook for next year is for yet another record crop. The table below vividly illustrates the difficult position we are in today with respect to the burdensome surpluses of these items.

	Average [1] yearly sales (No. 10 cans)	Present stock on hand (March 1981)	Percent of yearly sales
Apricots	1,106,645	571,636	52
Fruit cocktail	3,008,984	2,573,332	86
Peaches	6,795,523	4,315,172	63
Pears (California only)	1,517,419	903,464	60

[1] 1976–1980.

Rapidly escalating production costs and a leveling of consumer demand, along with the excessive inventories and the prospect of future bumper crops, paints a bleak picture for the California canning industry. In addition, it is conceivable that many thousands of tons of fruit will go unsold this season. Therefore, it is vital for USDA to recognize the serious situation that exists in the industry, and to use the funds available to continue its surplus commodity purchase program in an effort to alleviate the situation.

Schools across the country currently obtain roughly 20 percent of the food they use under the School Lunch Program from the USDA's direct purchase system, while over 80 percent of the commodities are purchsed from local sources. This 20 percent figure represents a small portion of all commodities used by the schools, yet it represents the primary outlet for much of the food surpluses acquired under national surplus removal and price support programs. In the case of canned fruits and vegetables, direct procurement and distribution by USDA to the schools is the principle alternative to having the food go to waste.

It is widely acknowledged that the direct purchase program permits the most economical processing of a product which fits precisely the governments needs. Specifically, by dealing with USDA, as opposed to dealing directly with thousands of individual school districts, both the seasonal packer of fruits and vegetables and the government benefit, as a complete analysis of the supply and demand situation is made by experts intimately familiar with the industry. This analysis is made far enough in advance of the new pack to allow for proper planning by the packer to supply the precise style of the product in the exact packing medium required by the feeding program. This pack planning must be possible if the government is to receive an open bid based upon a special low price.

Seasonal canners of these California specialty crops have a short, two to three month season during which perishable crops must be processed. By suiting purchasing practices to this situation, the USDA has been able to obtain from our industry large quantities of fruits and vegetables packed to its specifications and at the best prices possible. The table below clearly illustrates examples of the value received through USDA's commodity purchase program.

Date of USDA purchase	Product	F.O.B. factory	
		Average USDA purchase price per case	Commercial customer price per case
July 30, 1979	Canned peaches	$11.02	$12.10
Aug. 20, 1979	Canned pears	12.80	15.30
Aug. 23, 1979	Canned tomato juice	5.69	6.25
Sept. 24, 1979	Canned tomato paste	12.12	14.00

The purchase of these products in smaller quantities or smaller container sizes would increase the cost to the schools dramatically. For example the same quantity (and grade) of peaches purchased in #303 cans would cost $13.04 F.O.B. factory instead of $11.02.

Direct commodity purchases by USDA also offer other cost efficiencies which further reduce the overall cost of commodities as opposed to a "cash-out" or "voucher" system. Contracts awarded under USDA's open bid program can be processed more economically due to line efficiencies and less warehouse handling. Further, there is no additional mark-up on a direct purchase. The USDA purchases and ships primarily by rail, the lowest cost transportation. On an indirect purchase, the packer quotes a price, then adds freight charges to the destination warehouse, then, the distributor adds a mark up of from 1 percent to 14 percent to cover additional handling costs. The uncertainty of dealing with a great many school districts across the nation does not permit the same cost reductions because the date of shipment and style of pack cannot be known before the time of pack in most cases. Clearly, USDA's direct commodity purchase system fulfills its mandate by offering high quality commodities at extremely competitive prices.

A claim has been made that small businesses have been systematically forced out of the school lunch distribution system; when in fact, over 80 percent of all purchases for the School Lunch Program are done on the local level. It is important to note that a vast majority of the cooperative canning and processing associations' members are small farmers. Certainly under any definition, a farmer with fifty acres of land under cultivation must be considered a small business. Through membership in these cooperatives the small farmer has been able to successfully compete for a fair share of the market. One has only to look through the past several years of USDA purchase notices for the School Lunch Program to discover that the small independent packing companies generally receive the highest price per case even though providing only the minimum quantity for bidding purposes. This fact in itself should point out the fair and equitable nature of USDA's direct purchasing program.

In summary, we believe that the USDA's direct commodity purchase program should be continued for the following reasons:

1. Procurement through a central purchasing program allows USDA to buy the highest quality products in the required sizes at the lowest prices. These efficiencies of scale are simply not possible under a "voucher" or "cash-out" system;
2. Only through direct commodity purchases can a seasonal packer of perishable fruits and vegetables plan in advance to provide a precise style of product in the exact packing medium as required by the feeding program. This precise pack planning would not be possible if the processor had to deal individually with thousands of school districts across the nation. By suiting purchasing practices to this situation, the USDA has been able to obtain from the California canning industry large quantities of fruits and vegetables packed to its specifications at the best prices possible;
3. The surplus commodity removal program is a vital source of market stability to non-supported crops. The current severe surplus situation in California is precisely the problem that USDA's surplus removal program is designed to alleviate. Continuation of this program is vital to the California fruit and vegetable canning industry and the thousands of small family farmers who grow the crop.

CALIFORNIA CANNING PEACH ASSOCIATION,
Lafayette, Calif., May 7, 1981.

Hon. ANDY IRELAND,
Chairman, House Subcommittee on Export Opportunities and Special Small Business Problems, Committee on Small Business, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN IRELAND: We regret that it was not possible for a member of our staff to be in Washington for your scheduled hearings on the role of small business in the commodity procurement process. As a small business ourselves (12 employees) our budget could not withstand the journey. However, we have a vital interest in the commodity procurement program and wish the following to be entered in the hearing record.

Our Association represents cling peach growers (700 members), who sell their product for canning to 13 cling peach processors, all located in California. Each year, our industry provides the commodity feeding programs with an economical supply of canned peaches at prices that do not include brokerage or middleman add-ons.

The current commodity procurement program provides the most economical means of purchasing canned fruit for use by the government. Canned fruit is a seasonal product, with a short packing season. Canners must know in advance specifications for government purchases in order to pack to those specifications which are not ordinary requirements. By knowing in advance, the canners can plan their packs in the most cost efficient manner. Without the commodity purchase program, canned fruit simply would not be packed to school lunch requirements. Currently, by issuing commodity purchase announcements in large quantities during or in advance of the packing season, the government has been able to procure canned fruit "tailor-made" to school requirements at prices 5-10 percent below list prices. This advantage for the government would disappear under any proposed allowance, voucher, or cash-in-lieu program.

Because USDA asks for bids on canned fruit in carlots of 2,200 cases, access for small business to canned fruit purchases is facilitated. Just within this past year, awards have been made within the same purchase ranging from a successful bid of 6,600 cases from one processor to 396,000 cases from a large processor. Awards have even been made at the 2,200 case minimum level. I would also point out that 50 percent of peach tonnage is canned by cooperatives, which are owned by small farmers throughout the state. Past records reflect that cooperatives are the most active participants in USDA canned fruit purchases.

None of the testimony presented to your committee to date has reflected dissatisfaction with canned fruit purchasing practices. We are proud of the fact that each year, canned fruit ranks high on the schools' desired list and quality ratings. We would like to continue to supply the government with canned peaches, but without a commodity procurement program, our industry's ability to do so would be greatly if not completely curtailed.

Thank you.

Sincerely,

RONALD A. SCHULER, *President.*

Mr. IRELAND. Thank you for being with us.

Mr. Smith, do you have comments?

Mr. SMITH. I thank you for your comments. I think they are very good. I don't know much about fruit and how they handle fruit. Have you been aware or do they call for delivery of the fruit, for example, in California? Is it delivered to other points, or how do they handle that?

Mr. COELHO. I can't tell you that for sure, Mr. Smith, but I assume what happens, based on just recalling the many conversations I have had, is that it is probably delivered from California. But I can't say that for a fact.

Mr. SMITH. Well, my comment, I just wondered if you had been aware of the kind of thing I mentioned there, is that I think, for example, if they need a certain quantity of something in New York City they at least ought to investigate the possibility of buying that quantity in New York City and selling the same quantity the same day as an alternative.

Mr. COELHO. One of the problems they have had, Mr. Smith, that I can tell you about is that, for example, in recent history the USDA has required that from my processors and so forth, that the product that they want be processed in a certain size can under certain conditions in a certain way, and that is not what is in the market.

I think what you've got to do is you've got to analyze what has been happening here. They want a product that is not in the marketplace because there is some nutritionist there in the Department of Agriculture who feels that what is in the marketplace is not what these kids should be eating. So they want to have something different than what is in the marketplace.

Well, if that is what they want, we will process it for them. If they will buy it, we will process it for them. But don't come and blame the program, then, for inefficiencies and for problems.

Let's analyze what the direction is by the Department of Agriculture and the food nutrition people before you criticize the program.

I can be very specific in regard to that. And in regards to peaches and so forth, they have put it under certain conditions for products that are not in the marketplace.

Well, I think your idea is a good one, Neal, but I think you go back to where is the Department coming from? What are they trying to do? What is their purpose? If their purpose is strictly a nutritional one and if that is what we want them to do, then I think there are certain things to comply with. If the purpose of the program is commodity distribution for the schools and surplus distribution for producers, I think that is another story.

Mr. **Smith**. Well, it is not a standard product or that wouldn't work. But it would accomplish the purpose of handling surplus foods.

Thank you very much.

Mr. **Ireland**. It is important for us to reiterate that the whole thrust of what we are talking about is the small businessman, the structure of the program, and handling of it by USDA. I think you are quite right, it is just unbelievable at times.

This has been going on for a long, long time. I come from an agricultural area and I have been aware for 20 years that the USDA has been inefficient in handling this program. It is a system we can no longer afford, financially in this country. I reiterate it is not the program that is the focus of this. If the small businessman performs in one part of it why is he shut out of the rest of it?

The issue you mentioned at the beginning, I totally agree with. There is no question that central purchasing could and should bring the highest quality products in the required sizes at the lowest prices. But that doesn't happen. Yet they ought to be able to plan in advance. It is the very planning in advance that doesn't happen, and there is just too much of a track record over the years of people either getting deluged with something, or something else not being delivered.

Mr. **Coelho**. Mr. Chairman, I agree with what you are saying. A lot of my people that I represent, and I don't represent the total California industry, I'm a spokesman for them on this issue. The concern that they express is that they don't know what to plan for and they would like to be able to have a plan, process also. They would like to be good businessmen. A lot of them are small companies. Most of them, the overwhelming majority of them are represented by small farmers. That is what we are talking about here, small businessmen and small farmers, the same thing. They need to have an orderly process.

We don't have any idea of what a department may or may not purchase, so a lot of these decisions are made at the last minute. It is not orderly. I really come back to what is the original intent of the program. There was a dual intent, and I don't really think we should get away from that in these new times of economics. I do think we ought to go back to try to solve certain problems. One is how do we most efficiently get these surplus commodities to school districts? I still think the original bill is a good bill. The original intent is still good. Something has happened in the process.

Maybe with USDA having to tighten their belts along with everybody else, and if we could make sure that the right people are in charge of the programs and that they aren't overruled by somebody else who wants to serve some other purpose other than the intent of the program, we could make it as efficient as it was intended to be.

Mr. **Ireland**. Well, I think your experience is far greater than mine, but the problem is getting a bureaucracy to respond. So far they haven't, and I am sure that for the person who comes up with the idea of how to get them to respond, we have plenty of room to build a statue to them out there. [Laughter.]

Mr. **Coelho**. Well, maybe that is our legislative challenge. That is what we are here for.

Mr. **Ireland**. Thank you very much for being here.

Our next witness is from the National Pork Producers, Mr. Steven Heaberlin.

Mr. **Smith**. Mr. Chairman, I would like to say that Mr. Heaberlin is a resident of one of the counties that I am privileged to represent, and he has been a spokesman for the pork industry for a good many years. I am glad to see him here.

Mr. **Ireland**. Mr. Smith, there is a vote. Would you mind conducting the meeting for a while.

Mr. **Smith**. I am glad to have you with us today.

TESTIMONY OF STEVEN HEABERLIN, PORK PRODUCER, ACCOMPANIED BY DR. DON VAN HOUWELING, D.V.M., DIRECTOR OF GOVERNMENTAL AFFAIRS, ON BEHALF OF NATIONAL PORK PRODUCERS COUNCIL

Mr. **Heaberlin**. Thank you, Mr. Chairman. Also with us is Dr. Don Van Houweling, director of governmental affairs for the National Pork Producers Council here in Washington.

It is a pleasure to appear before you today to outline the position of the National Pork Producers Council. The NPPC has over 100,000 dues-paying, producer farm families within 36 States as members. It is funded entirely by a voluntary check-off program which collects 2 dimes per market hog at the marketplace. Producers who voluntarily choose to participate, fund industry research, education and promotion programs.

The NPPC supports the present USDA commodity purchase program. In 1980–81, USDA purchased a total of $103.4 million worth of pork which consisted of 63 million pounds of frozen ground pork and 25 million pounds of canned pork. It is important to note that significant portions of these total purchases were made when pork was in abundant supply and economically priced for USDA purchase. This unique commodity purchasing opportunity can help to stabilize market prices in times of surplus as defined in current law.

I would like to illustrate how important this program is to the Nation's pork industry. In spring, 1980, pork producers were facing a critical time for our industry. Hogs were selling for $28.50 per hundredweight. Producers were facing a critical cash-flow problem. There was talk of panic selling among both well-established and recently established pork producers. The depressed pork market was hitting our industry hard.

The pork producer leaders initiated an action plan with the purpose of strengthening and directing the industry toward a positive outlook. Involvement of the volunteer pork producer at the county, State, and national level was organized to move surplus pork through the market to consumption. In addition, leaders urged the USDA to purchase pork for the fall school lunch programs. Within 3 weeks, USDA bought $30 million worth of pork.

This action plan helped the pork producer. Each aspect of the plan helped to stabilize and strengthen market prices. Within 4 months, hog prices were $15-$16 per hundredweight higher than they had been in April.

We understand the purpose of your subcommittee hearing is to consider whether small business is allowed to actively and fairly participate and compete in the commodity procurement process. According to FSQS statistics, small business played a significant role in recent USDA pork purchases. It would appear from these statistics that small business does effectively compete for the pork dollars.

One, for the 1979-80 school year, total frozen ground pork purchased: 24,373,110 pounds; 4,687,921 pounds or 19 percent purchased from small business.

Two, for the 1980-81 school year, total frozen ground pork purchased: 74,085,134 pounds; 39,055,674 pounds, or 53 percent, purchased from small business.

Total canned pork purchased: 29,449,345 pounds, or 70 percent, purchased from small business. Small business is defined as employing 500 persons or less.

Although not related to the specific considerations the committee is addressing, the NPPC would like to identify strong points favoring the USDA commodity distribution program: Allows for distribution and use of pork in schools nationwide; provides schools with a high-quality product meeting USDA quality standards; assures use of domestic pork; USDA is willing to work with industry to improve acceptance of pork in school feeding programs.

NPPC urges the subcommittee to thoroughly evaluate all the information presented here in consideration of the USDA commodity purchase program. An important consideration will be results obtained from a 3-year pilot study which has received funding at nearly $2 million in the Agriculture Appropriations Act for fiscal year 1981, Public Law 96-528. Just recently reiterated in the report to accompany the supplemental appropriations and rescission bill of 1981, this pilot study is defined in the section dealing with child nutrition. This study will provide useful information on the USDA commodity purchase program and alternative programs presently being discussed. To proceed with changes prior to obtaining pilot study results would be premature.

In conclusion, the NPPC urges the subcommittee to recognize the following points in reference to the USDA commodity purchase program:

One, a 3-year pilot study within 60 school districts will thoroughly evaluate the present program in comparison to alternative programs being proposed.

Two, the pork industry feels strongly that the present program has served to stabilize and strengthen the pork market when pork supplies were abundant.

Three, USDA has demonstrated continued willingness to evaluate and improve administration of the commodity purchase program.

Four, the small business participation in the procurement of pork has been significant.

Therefore, the NPPC sees no reason at this time to make substantive changes in the USDA commodity purchase program. Thank you.

Mr. SMITH. Now, just for the record, you represent producers and you are not in the business of slaughtering or selling?

Mr. HEABERLIN. That is correct.

Mr. SMITH. Do you have any specific recommendations at this time for improving this?

Mr. HEABERLIN. As far as right now the distribution of that, I am not familiar with that. I know we do have a new administration and they will be looking into this. Secretary Block is working on it at this time.

Mr. SMITH. We can leave the record open at this point. I thought maybe you had dealt with it enough for your organization and that they might have some specific ideas.

Mr. HEABERLIN. Don, would you have any comment on that?

Dr. VAN HOUWELING. I think we would appreciate the opportunity, Congressman, to supply some more information for the record.

Mr. SMITH. Well, your testimony is welcomed. Of course anything we can do to improve the opportunity for small businesses to compete is what we would like to do on this committee. Especially, any ideas you have along that line will be helpful. Thank you.

The next witness is from the National Turkey Federation, represented by Mr. Grizzard and Mr. Walts.

TESTIMONY OF TAYLOR GRIZZARD, DIRECTOR OF MARKETING, WAMPLER FOODS, HINTON, VA., AND G. L. WALTS, EXECUTIVE VICE PRESIDENT, NATIONAL TURKEY FEDERATION, RESTON, VA.

Mr. GRIZZARD. Thank you, Mr. Chairman, members of the committee. My name is Taylor Grizzard. I am marketing director for Wampler Foods in Hinton, Va. With me is Lew Walts, executive vice president of the National Turkey Federation, with headquarters in Reston, Va.

This statement is presented in behalf of the National Turkey Federation, the only national trade association representing the producers and processors of turkey and turkey products. The members of the federation are responsible for the production and marketing of 90 percent of the Nation's turkey crop.

Producing turkeys, like the production of any agricultural commodity, is a very cyclical business. In some years, returns to the grower will not only cover the costs of production but will provide a fair return on investment. In other years, returns to growers are much less than the cost of production, resulting in substantial losses. Such is the case with the turkey grower today who is losing $1.50 to $2 on each bird grown.

The U.S. Department of Agriculture has a number of programs designed to stabilize farmer income and protect against the large losses which can occur when supplies of a commodity are greater than demand. Best known are the support and loan programs for basic commodities such as wheat, feed grains, soybeans, and dairy products. The producers of fruit and vegetables are encouraged to coordinate their production and marketing through the use of Federal marketing orders. None of these programs are available to the growers of turkeys. The only Government program which tends to moderate the cyclical nature of turkey production and marketing is through USDA's commodity procurement programs for school lunch and other Federal feeding programs.

The USDA commodity program has been part of the national school lunch program since 1946. The program is designed to accomplish two goals: One, to assist in the orderly removal of surplus agricultural commodities; and two, to provide these nutritious commodities to support school lunch programs. Thus, in evaluating the commodity program, it is important that both these objectives be kept in mind.

Government purchase of turkey and turkey products benefit both producers and consumers, as well as the recipients of these donated foods. When the Government purchases quantities of turkey products and thereby assists in price stabilization, the benefit to the producer is obvious. Consumers benefit because turkey production becomes a less risky business and growers are able to stay in business and produce to satisfy domestic demand.

Commodity purchases are perhaps unique among USDA programs in that they contribute to a broad section of public interest. Through the existing centralized procurement activities of the Department, producer purchasing power is enhanced and our Nation's schoolchildren are provided with nutritious food products produced under Government inspection and subject to enforceable product specifications.

Additionally, the vast network of channels maintained throughout the several States for the distribution of commodities to the school lunch and other Federal feeding programs are on constant standby for use by relief agencies such as the Red Cross and civil defense in times of disaster or national emergency. Should procurement activities by the Department for the school lunch program be terminated, the end result would be the dismantling of the food distribution systems in the several States. It is our contention such an action would not be in the public interest.

While turkey growers plan their production schedules so there will be less production in the early part of the year, nevertheless turkey prices often decline disastrously during the spring and summer months. The Government's ability to announce intentions to purchase and to make timely purchases of turkeys when there is overproduction and markets are weak is a significant plus factor for producers and embodies the true objective for the utilization of section 32 funds for surplus removal and producer price stabilization.

The manner in which the Department carries out its procurement activities for turkey and turkey products is extremely effective. Offers are announced for various destination points at 2-week intervals. These destination points are determined by commodity orders requested by the school. Bids are received on a delivered basis. The names of the successful vendors are released to the public, along with the quantity purchased and the prices paid. The fact this information is made available to the public has a positive impact on the market price structure.

Thus, the commodity purchase program is, and has been, a very effective instrument in providing some Government assistance to our cyclical agricultural industry. Like many other Government programs, however, commodity purchases and the accompanying distribution system are not letter perfect The National Turkey Federation has worked with USDA and wants to continue to work with both USDA and the Congress to improve the effectiveness of the program, the acceptability of the commodities purchased and to significantly improve the delivery system. We believe that the Department has made significant progress over the past year in correcting certain deficiencies in the program.

We have observed that many of the same issues being discussed at these hearings were explored in great detail last year by the Committee on Education and Labor. As a result of that debate, just 5 months ago, Congress appropriated $2 million for a 3-year pilot study to research viable alternatives to the commodity program. In addition, the General Accounting Office is currently investigating cost effectiveness with respect to cash in lieu of commodities. In light of these developments, it is premature and counterproductive that the Congress would now consider eliminating a longstanding Government program which has meant so much to so many in the agricultural community.

In addition, a new administration is in place. It is suggested that Congress should allow sufficient time for these USDA officials to evaluate the existing commodity procurement and distribution programs and to initiate what they feel would be cost-effective procedures.

It was our understanding the focus of these hearings would be a factfinding mission on whether or not small business is allowed to actively and fairly participate and compete in the commodity procurement process for the school lunch program. However, it seems to us these hearings have strayed considerably from their intent and instead have become a platform to promote the concepts of H.R. 3077, which would eliminate the USDA commodity procurement and distribution programs and replace them with a commodity allowance scheme. And, in this vein, the National Turkey Federation supports the commodity program and opposes the concept of a commodity allowance as we opposed the commodity letter of credit last year. We also oppose a cash-out program.

But, nevertheless, we do intend to address ourselves to the issue of the commodity procurement program as it relates to small business. First of all, we can unequivocally state that the man on the farm growing turkeys today must be considered a small business. While this person does not actually offer product for purchase by the Government, he is a basic supplier and is impacted by the Department's purchases for the school lunch program.

It must also be pointed out for school year 1981, 58 percent of the companies who sold turkey and turkey products for the school lunch program are classified as small business by USDA. The extent of small business participation in the Department's procurement of turkey and turkey products has increased to this high level from 21 percent in fiscal year 1976.

In a press release dated April 22, Mr. Chairman, you state:

> Small businesses have complained to the subcommittee that there is a lack of competition for and growing concentration in the bid awards made by the USDA for meat, poultry, fruit and vegetable buys made. They also have told me that the same problem exists in the processing of USDA commodities. As a result, I have scheduled several hearings to explore this issue.

We respectfully suggest that the chairman has not received complaints from turkey growers or industry companies who offer turkey and turkey products for purchase by the Department. However, we could hypothesize that the core complaints perhaps emanate from the food distribution industry. Should this be the case, then the scenario becomes very paradoxical as these are local firms who now provide 80 percent of the food used in school lunch feeding programs. Quite frankly, we have to stretch our imagination considerably to accept the premise that USDA commodity purchases have a significant competitive impact or disadvantage on these types of businesses, particularly when they already have 80 percent of the school lunch business.

On the other side of the coin, we have long wondered about the competitive factor as related to small school lunch systems in rural areas. It is entirely possible these systems may have access to only one, or perhaps two, food distributors. If such is the case, then we are concerned that these systems do not enjoy the benefit of competitive bidding and thus become a captive market.

Early on in these hearings, some negative comments were expressed concerning the turkey and turkey products provided by the Department for school lunch feeding. For the purpose of the record, it must be reported that USDA conducted a State agency preference survey on foods distributed in the school lunch program for fiscal year 1979. Reports were received from 46 States, the District of Columbia, Virgin Islands, American Samoa, and Puerto Rico. This data showed that whole carcass frozen turkeys had an overall rating of 97.5 percent as highly acceptable, ranking this product as the third most highly acceptable item in the protein foods category. Frozen cooked turkey rolls had a highly acceptable rating of 48.8 percent; an acceptable rating of 48.8 percent and an unacceptable rating of 2.4 percent.

Based on these results, we would conclude that the criticism leveled at these products can best be traced to individual idiosyncrasies in the area of food preference. While on the subject of turkey products, we are pleased to report that during this fiscal year, the Department purchased a small quantity of raw, boneless turkey roasts as a test product for school lunch feeding. The preliminary report on the acceptability of this product is very encouraging. As a matter of fact, Mr. Stanley Smith of Maryland, who testified before this committee on April 28, rated the raw turkey roast as excellent.

Also in 1979, USDA reported that a panel of officials from the Food Safety and Quality Service conducted analyses on 21 types of food products generally purchased for use in school lunch programs. Locally purchased foods bought by nine school districts participating in the study were compared with USDA donated commodities used at nine other districts.

Commodity graders from FSQS visited the 18 locations and determined each product's grade, condition, weight, and compliance with specification requirements. The study concluded that whole carcass turkeys were all satisfactory and no differences between the quality of donated and purchased product were noted.

The cooked turkey rolls were similar in terms of fat, moisture, total protein, and salt. However, the amount of turkey meat in the product was significantly greater in the donated product, 81 percent meat, compared to the locally purchased product, 52 percent meat. The USDA donated product included ingredients such as skin, soy protein, water, salt, sodium phosphate, and pepper, whereas the locally purchased products included such ingredients as broth, skin, vegetable protein, vegetable oil, nonfat dry milk, sugar, and salt.

We bring these facts to the committee's attention as reinforcement of our position that commodities donated by the Department for school lunch feeding are produced under enforceable specifications and standards, with particular emphasis given to quality and nutritional value.

Mr. Chairman, this concludes our statement. We appreciate the opportunity of appearing before your committee and will be pleased to reply to any questions you may have.

Mr. SMITH. You didn't say anything about canned turkey and gravy. Don't they purchase that anymore?

Mr. GRIZZARD. Canned turkey and gravy, I do not believe so.

Mr. WALTS. No; they do not purchase that anymore.

Mr. SMITH. It is all frozen product?

Mr. WALTS. Yes, it is all frozen. They haven't purchased canned turkey for 3 or 4 years. The turkey industry cannot compete basically with the costs associated with that product as related to the usage of spent fowl, so they do not purchase canned turkey anymore.

Mr. SMITH. Well, when you are going to keep something for an extended period of time, I understand frozen and the process you have mentioned in here is delivered right away. But when they are going to keep it for months or maybe a couple of years, or don't they do that now with turkey?

Mr. WALTS. No, sir.

Mr. GRIZZARD. We do not recommend that turkeys be kept for this long a period of time. There is no problem to maintain turkey in a frozen state if it is delivered within a period of a year but we are not aware of any long holding programs for the product.

Mr. SMITH. Well, you are representing the growers, is that right?

Mr. GRIZZARD. Both growers and processors, the total turkey industry.

Mr. SMITH. With regard to the processors, do you find any problems with regard to the specifications?

Mr. GRIZZARD. No, we do not. In fact we have found the Department most cooperative in counseling with our industry through our National Turkey Federation insofar as the standards and specifications are concerned. We have given considerable input and recommendations to the Department on the establishment of the standards and we have no problems with them at this point.

Mr. SMITH. You don't think there is any problems with any processing?

Mr. GRIZZARD. No; we do not. We operate under very rigid Government standards. All of our plants, of course, are federally inspected. In fact, we like the standards because it gives us a uniformity of product throughout the country.

Mr. SMITH. Thank you very much.

Next we have the National Milk Producers and Patrick Healy, or Susan Friday.

TESTIMONY OF SUSAN FRIDAY, DIRECTOR, CONSUMER AND NUTRITION PROGRAMS, NATIONAL MILK PRODUCERS FEDERATION

Ms. FRIDAY. Pat Healy could not be here today. I am Susan Friday, director of consumer and nutrition programs of the National Milk Producers Federation. The federation represents the dairy farmer membership of milk cooperatives doing business in every State of the Union.

I welcome the invitation to present our views on commodity distribution as an important element of this Nation's nutrition programs and as an essential tool for stability in the national agriculture economy.

It is worth restating the rationale for the commodity distribution program as it originated in the 1930's as a solution to fill two needs.

On one hand, farm crops and herds were being destroyed, because there was no way to sell them at any price. The prices that farmers received for whatever they could sell were far below their costs of production.

On the other hand, many Americans were going hungry. Those were national problems, and the Federal Government took a commonsense approach of acquiring unsold crops and putting them to good use in school lunch programs.

The commodity distribution program continues today because the same basic considerations prevail. Farmers are in a bind because they are hit with rapidly rising costs of everything they need to produce a crop. But the prices they receive for their crops can often threaten their ability to survive.

In other fields, automakers and retail stores can simply pass along their higher costs to the consumer and they can adjust their operations to meet market needs. Assembly lines in factories can be stopped for a week, or extra shifts added. Retail stores can increase or cut back their orders, depending on current sales.

But there is no way to shut down a cow or a hen for a week or two. They have to be fed, no matter what the market for milk or eggs may be at any given time. Yes, hens and cows can be sold off, with much the same result as selling off equipment of assembly lines or fixtures of a retail store.

For the row-crop farmer, everything rides on his one shot a year at producing a crop. From the time he plants until he delivers his crop to a buyer, much or all of it can be lost to insects, plant diseases, diseases, drought, rain at harvest time, and all the other risks. Against all those odds, the farmer must do his utmost to produce as many pounds as he can get out of his acres in the hope he just might come out ahead.

But, of course, I can speak best about the business I represent, the dairy industry. Other representatives of other segments of agriculture are here to represent their own views in support of commodity distribution and its role in assisting the stabilization of prices to agricultural producers.

Most commodities distributed through the Food and Nutrition Service program operate on a system different than for dairy. For other commodities, when USDA recognizes that prices to farmers sag to the point that the producer is in jeopardy in recovering his costs, and that the price of such commodities makes a large purchase a good food buy, the Commodity Credit Corporation purchases the commodity in lots which will bolster the price at the farm. These commodities are then distributed to schools and institutions for use in the meal programs.

In the case of the dairy industry, the Government has already purchased stocks of butter, nonfat dry milk, and cheese through the operation of the dairy price support program. As a matter of fact, at this time the Government is holding rather large stocks of dairy products. Our price support program calls for Government purchases of milk in the storable forms of powdered milk solids, butter, and cheese. These products are bought at a price announced by the Secretary of Agriculture which provides a market for domestically produced milk, therefore a farmer is assured a minimum price for his product.

The dairy price support program has been extremely successful in balancing the wild fluctuations of price and product which can exist in the marketing of such a perishable food. Consumers are served by being assured an adequate supply of milk at a fair price, dairy farmers are served by being assured a market and a fair price, and over the years generations of children have been served by being assured a nutritious school lunch assisted by Federal commodity donation.

For the dairy price support program, commodity distribution represents the most important and most stable outlet for Government stocks of dairy products. In the year 1979, 99 percent of the cheese, 80 percent of the butter, and 13 percent of the cheese distributed by the Commodity Credit Corporation moved into schools and institutions for the national school lunch program. Because our stocks are currently higher than usual, the current distribution figures are not as impressive. But I assure you that the commodity distribution program is an essential element of the dairy price support program which provides a basic stability to the small businessmen who produce the milk and dairy products important to the health and welfare of the people of this Nation.

The commodity distribution program is one effective mechanism to help ease the ups and downs of farming, the ups of excess production and the downs of farm prices that don't meet farmer costs.

The size of purchases of any single commodity under the program may account for only a small proportion of the size of that particular crop. But in many cases it is enough to contribute significantly to easing the problem of farm surplus or prices.

The federation does not view the commodity distribution system as a one-way street or, as some would like to say, a dumping ground. We want it to work for the benefit of school lunch programs as it does for the farm sector.

Almost every commodity organization conducts ongoing programs throughout the school food service world, to help local staffs make good use of the commodities they receive. One reason so many school food service personnel welcome commodities is because of the assistance they receive in the form of shared expertise, practical recipes and serving ideas, merchandising materials, and other assistance that is given without strings. Why then do we hear criticisms of the commodity distribution program, including those from some school lunch directors, although they are in the minority?

For one thing, in recent years some large school districts have adopted feeding systems that are rather sophisticated and which, their people say, are not geared to make the greatest use of commodities. Some other large school districts, which have many schools without kitchens or lunchrooms, buy completely prepared meals from outside suppliers who ignore the role that commodities play in reducing costs.

But to fully understand today's issues over commodity distribution, one has to know the patterns of the 1970's. For much of that time, the commodity distribution system was given low priority within USDA, and its operations were hampered by cuts in personnel. In 1974, in the wake of the Russian grain deal, it was held by some that the age of the farm surplus was over. The types of commodities purchased for the program were narrowed.

Those actions led the State of Kansas to prematurely shut down its commodity distribution facilities. But the clamor for commodities that arose from school food service people throughout the country led Congress to insist that the program be continued. The effect of the first Russian grain deal turned out to be short lived as far as ending the ups and downs of American farm production.

But the damage done to commodity distribution lingered on, and this has generated the complaints we hear from some school lunch directors. At the same time, the organizations that would like to do away with commodity distribution have mounted a forceful attack on the program. And they have pressed for study after study of the program, while it was still suffering from the effects of the hostile policy of a few years ago. Many of the problems created at the Federal level have been solved. Grants to provide money for technical assistance to States have been quite effective in improving the intrastate distribution systems.

It is not surprising then that flaws were found in the program. But the studies themselves have been flawed because of built-in faults. For example, take the study of cash in lieu of commodities carried out 2 years ago in eight school districts. The prices of the foods those schools bought on the open market form the very basis of the study. But the study didn't ascertain whether those prices were artifically lower than the prices paid by neighboring schools for the same foods.

It would appear that opponents of commodity distribution wish to serve their own needs. We, too, are interested in serving the needs of our membership. The fact is that a change from commodities to cash or voucher would add an enormous amount to the Federal budget. While the present amount of Federal commodity funds would be paid out in cash to local school districts, an additional amount would be required to handle the stabilization of farm crops and prices.

Every $1 now spent in the current program does the work of $2; the same dollar that provides schools with food also works to stabilize the farm economy.

The major question we must ask regarding commodity distribution is: Is there a value to a national food distribution system? Critics of the system complain that certain large school systems could do just as well to purchase all their foods locally because certain areas of the country and certain concentrations of schools permit some school districts to purchase foods cheaper than others. But the real value of a national food distribution system cannot be answered by asking if everyone involved is served at their optimum convenience, but rather is the Nation as a whole better served by such a program?

Other witnesses before you today are charged with the responsibility of disaster assistance and aiding the people of our Nation during times of crises. I would not claim the business of national security to be my expertise. But the issue is valid to all Americans. The commodity distribution system, like all national programs, is one of a trade off. Some convenience and flexibility for a few is traded in for flexibility which benefits all. The commodity distribution system is a national cooperative system where people and programs work together to provide a larger good for all concerned.

I would be happy, Mr. Chairman, to answer any questions you may have.

Mr. **Smith**. Do you have any specific recommendations of ways to make improvements in the program?

Ms. **Friday**. I have spent some time at USDA with some of the staff people there who are responsible for commodity distribution system. The federation was instrumental in starting to develop a group to work with the Assistant Secretary of Agriculture in charge of commodity distribution. We intend to pursue this contact. I intend to pursue this connection at a lower staff level within the Department.

I understand that some of the funds that have been given within the Department to various States for technical assistance has been very effective. I think, Mr. Chairman, as I look at different programs across the country they are effective on a State-by-State basis. Some States are tremendously effective.

Mr. **Smith**. It depends on the local administrator?

Ms. **Friday**. Well, it is like any business small or large. It depends on the people who are charged with taking care of it. And there are those who have a better background and they have a little bit more commitment. It does take a personal effort to make it work.

Mr. Smith. Have you encountered or are you aware of the problems in distribution? I am thinking especially of cheese now, in Wisconsin, distributing to local districts.

Ms. Friday. I have not heard of any problems currently in the distribution of dairy products. And I would be very interested if you have heard of any specific problems because we would like to facilitate the proper distribution.

Mr. Smith. Thank you very much.

Ms. Friday. It has been a pleasure. Thank you.

Mr. Smith. Next we have the National Farmers Union, Ms. Ruth Kobell. We are glad to have you with us today.

TESTIMONY OF RUTH E. KOBELL, LEGISLATIVE ASSISTANT, NATIONAL FARMERS UNION

Ms. Kobell. I appreciate the opportunity to present testimony. I am Ruth Kobell, legislative assistant for the National Farmers Union.

You have a varied group of people testifying this morning, and I would suggest that in the interest of time I summarize my statement.

Mr. Smith. That will be fine. We will put your prepared statement in in full.

Ms. Kobell. The announcement of this hearing raised questions regarding the efficiency and effectiveness of the commodity purchase program, which does provide for buying temporary oversupply of agricultural products and distributes them to a variety of nutrition and other feed programs. At present this is the only tool that the Department of Agriculture has to try to help people who raise commodities without other price support mechanisms and who are faced with depressed commodity prices but have no effective marketing mechanism for raising that price, as has been pointed out as many other sections of industry do.

There have been comments on cashing out commodity programs. Eighty percent of present Federal support of nutrition programs is provided in cash and 20 percent is provided for commodity. Frankly, we are skeptical that a climate that exists at present for adoption of a cash-in-lieu-of-commodities approach. We do not visualize a likelihood of approval even in the Office of Management and Budget under David Stockman or in the budget committees of Congress in light of the current budget hysteria of a cash grant subsidy program equivalent to the $1 billion commodity distribution system.

The cash in lieu of commodities would be an early target, I would expect, for further cuts and therefore, a reduction in our commitment to nutrition programs.

National Farmers Union members are the farmers and ranchers who raise the wide variety of products which provide a stable and abundant supply of food for our citizens and for export. They represent the single largest group of entrepreneurs to which your hearing is addressed.

Throughout the Nation's history a family farm structure of agriculture has been the clear choice of the American people. On every score the family farm continues to be the superior choice in assuring abundant, efficient production, care of the land and water resources, rural employment and quality of life in rural communities, and contributes to export earnings and more favorable balance of trade of the United States.

But our invaluable production base of family farms is threatened with extinction unless we target improved price supports for the abundance they produce. And I think that in the broader consideration we need to recognize that this is a small contribution in the maintenance of that production base.

The individual farm family stands almost alone as an example of free competition in the national economy, functioning in a mixed economy in which the free market has been modified by corporate structure, by tariffs and import restrictions, by laws for fair trade pricing, by exclusive franchises, by restriction of entry into certain trades and professions, and by assured return on investment for public utilities and by collective bargaining for workers.

Over the years the Farmers Union has favored governmental policies and programs which would give agriculture a position of equality in a marketplace in which almost everyone else has some built-in protection. We believe such policies and programs should receive public support and be expanded to strengthen and to sustain our family farm structure.

Members of National Farmers Union meeting recently at their national convention reiterated their belief, and I quote from our policy, that:

> There is one overriding issue on which the future of the family agriculture and the future of our Nation's food supply depends—the need for a national food policy which provides a fair return to family farmers and abundant and stable food and fiber supplies for consumers.

Over the last 45 years, since the establishment of the commodity purchase program, the agricultural basis for USDA food distribution has remained basically the same, that is timing the commodity purchases to remove surpluses from marketing channels when they might help relieve depressed farm prices and moving the food through channels to people who need it.

I might point out that, as you recognize, farming is not always a tidy business. We don't know whether the 2 feet of snow out in the Great Plains is going to help make a bumper crop of wheat and we didn't know that the hot weather was coming last year, and we don't always know exactly what the crop conditions are going to be that need surplus removal.

Schools get 86 percent of the foods donated, which represented a little more than 15 cents worth of donated foods for the meals they served. The donations included ground beef, pork, chicken, dried beans, fruits and vegetables and juices. They also sometimes include bonuses such as nonfat dry milk, butter and cheese, supplies of which are sometimes larger than consumption can absorb at a fair price to farmers.

We channel these to such special consumer groups as schoolchildren and senior citizens, who benefit from commodity donations in their nutrition programs. We are concerned that commodity contributions to senior nutrition programs may be cashed out.

These commodity purchases are authorized and financed under a variety of legislative mandates. I was interested in your remarks that people sometimes do not remember why we established some of these programs and the important contribution that they make.

We believe that it is in the national interest to keep our farm production capability in place so that in times of crop failure, drought, heat waves, or other national disasters we are not faced with food shortages because we failed to protect our production base.

We believe that it is important that section 32 money support domestic agricultural production rather than being available for imports such as citrus juice from Brazil and Mexico, pineapple from Malaysia, or sliced apples from China, or beef from Australia or New Zealand.

Rural schools, are well served by the commodity programs because they often have higher purchase prices because of transportation costs, distance and lack of competition among suppliers. The rural school lunch program is a source of jobs for people with limited employment opportunities who can use the raw materials in food preparation onsite rather than purchasing highly processed, more expensive foods.

We recognize that while farmers now receive less than 40 percent of the consumers' dollars foods purchased, for example, under the food stamp program represent as much as 60 cents of the consumers' dollars going pretty directly to support farm products. An egg doesn't need much processing to be broken into a cake or into a morning breakfast meal.

The child nutrition programs are an important nutrition education and marketing development program for a rich variety of farm products. Children brought up on meat and potatoes in Nebraska may be introduced to rice and turkey and cranberries through a use of commodities programs in their schools. I think that this makes an important nutrition education contribution.

I believe that we need to start focusing our tax dollars to as many multiple uses as possible. I think the child nutrition program has made an important contribution to nutrition education as well as to commodity support.

The widely dispersed supply of food and the trained staff and equipped facilities should be recognized, also as a civil defense support. In the event of national disaster which might interrupt transportation and normal supply channels, the school feeding and commodity storage outlets in over 3,000 counties can provide the onsite delivery of invaluable, needed services.

In this period of constrained budget, we believe the targeting of tax dollars to focus on several national needs is a prudent and productive use of our resources.

We appreciate the opportunity to be here.

[Ms. Kobell's prepared statement with attachments follow:]

PREPARED STATEMENT OF RUTH E. KOBELL, LEGISLATIVE ASSISTANT, NATIONAL FARMERS UNION

Mr. Chairman: I am Ruth E. Kobell, legislative assistant for National Farmers Union, 1012-14th Street, N.W., Washington, D.C. 20005. We appreciate the opportunity to participate in this hearing regarding the purchase of agricultural commodities by the U.S. Department of Agriculture and their distribution to school lunch and other nutrition programs.

The announcement of this hearing raised questions regarding the efficiency and effectiveness of commodity purchase programs through which the U.S. Department of Agriculture buys agricultural commodities in temporary over-supply and distributes them to a variety of child nutrition and other feeding programs. This is at present the only tool provided to USDA to try to help farmers who raise commodities without other price support mechanisms (except for dairy) who are faced with depressed commodity prices but who have no effective marketing mechanism for raising that price to a cost of producting the food.

There have been discussions among industry suppliers regarding "cashing out" commodity programs. Eighty percent of present Federal support of nutrition programs is provided for cash purchases and we believe that the remaining 20 percent of support does provide some leverage for the dual effort of trying to help farmers stay in farming and trying to get the food which they produced to the consumers who need it.

Frankly, we are skeptical that a climate exists for adoption of a cash in-lieu-of commodities approach. We do not visualize a likelihood of approval either in the OMB under David Stockman or in the Budget committees in the light of current budget hysteria, of a cash grant subsidy program equivalent to the current $1 billion commodity acquisition and distribution system. The cash-in-lieu-of commodities would be an early target for elimination.

National Farmers Union members are the farmers and ranchers who raise the wide varity of products which provide a stable and abundant supply of food for our citizens and for export. They represent the single largest group of entrepreneurs of which your hearing is addressed.

Throughout the nation's history, a family farm structure of agriculture has been the clear choice of the American people. On every score, the family farm continues to be the superior choice—assured abundance, efficient production, care of the land and water resources, rural employment, quality of life in rural communities, and contribution to export earnings and a more favorable balance to trade.

But our invaluable production base of family farms is threatened with extinction unless we target improved price supports for the abundance they produce.

The face of our nation has changed dramatically since the Farmers Union was organized in Texas in 1902. In 1900 there were 29.8 million people living on 5,740,000 farms, making up 41.9 percent of the total population. Farming was labor intensive and all the family was involved, from youngsters to grandparents.

Since the turn of the century, we have experienced a revoluation in agriculture which provided machines and power to replace animal and human labor and large numbers of our rural population moved to urban areas in what is cited as the largest human exodus in the history of mankind.

U.S. farm population continues to decline. While the total U.S. population has increased steadily—from 203.7 million in 1970 to 219.6 million in 1979, the number of persons living on farms has declined, from 9,712,000 in 1970 to 6,241,000 last year. This means only 1 out of very 35 Americans—just 2.8 percent of the population—live on farms.

The individual farm family stands almost alone as an example of free competition in the national economy, functioning in a mixed economy in which the free market has been modified by the corporate structure, by tariffs and import restrictions, by laws for fair trade pricing, by exclusive franchises, by restriction of entry into certain trades and professions, by an assured return on investment for public utilities, and by collective bargaining for workers.

Over the years, the Farmers Union has favored governmental policies and programs which would give agriculture a position of equality in a marketplace in which almost everyone else has some built-in protection. We believe such policies and programs should receive public support and be expanded to strengthen and to sustain our family farm structure.

"Agriculture is the nation's biggest industry, with sales of $140 billion in 1980," U.S. News and World Report noted in an April 27th article, "Farmers also are major consumers, buying $132 billion worth of goods and services last year."

"Each U.S. farmer produces enough food and fiber for 65 persons—such an efficient rate that Americans spend only about 16.3 percent of average disposable income on food while Russians spend 45 percent, the Japanese 25.5 percent and the French 23 percent."

Members of National Farmers Union, meeting recently at their national convention reiterated their belief that "there is one overriding issue on which the future of the family agriculture and the future of our nation's food supply depends—the need for a national food policy which provides a fair return to farmers and abundant and stable food and fiber supplies for consumers."

Many people today do not remember the times when farmers burned corn to keep their families warm because they could not sell the corn for enough to buy coal and coal miners could not find work to earn the money to buy food for their families. Out of the desperation generated by the terrible Depression of the 1930s there developed such programs as the Commodity Supplemental Feeding Program. Farm products were purchased by the Federal Government where they were in surplus and transported to consumers in need.

Over the last 45 years, since the commodity purchase program began, the agricultural basis for USDA food distribution has remained basically the same, timing the commodity purchases to remove surpluses from marketing channels when they might help relieve depressed farm prices and moving the food through channels to people who need it.

Over the years, the emphasis of the food distribution program has changed from simple distributing surplus foods to providing a sophisticated system that gets the right kinds of food to the people who need them. Last year USDA supplied about $1 billion worth of food to schools, child care centers, nutrition programs for the elderly, and other institutions made eligible under Congressional mandate.

Schools got 86 percent of the foods donated which represented a little more than 15 cents worth of donated foods for each meal they served. Donations included ground beef, pork, chicken, dried beans, fruits and vegetables and juices. They also sometimes include bonuses of such things as non-fat dry milk, butter, and cheese, thus directing that the abundance of America's farms and ranches—which sometimes are larger than the consumer purchasing power can absorb at a fair price to farmers—be channeled to such special consumer groups as, school children and senior citizens who benefit from commodity donations to their nutrition programs.

These purchase programs are authorized and financed under a variety of legislative mandates that Congress has enacted over the years in an effort to provide some small assistance to the many producers of food whose products do not have price support mechanisms. With farm prices now standing at only 63 percent of parity, (See Attachment I) the need for efforts to improve farm income can hardly be denied. Included with our statement is "Attachment II", a list of the legislative authorities for purchasing and distribution of such foods.

Section 32 funds (of Public Law 74-320 enacted in 1935) provides that 30 percent of custom receipts of all imports are to be used to stabilize farm prices by removing perishable, non-basic commodities from normal channels. These are usually fruits, vegetables, meats and poultry products which do not have other federal support price programs. Farmers today are faced with depression level prices as shown in the attached report of April 1981 farm parity ratio. If Section 32 funds were turned into cash and given to local schools, there is no assurance they would focus on food purchases of those products which were in over-supply at a given time, thus depressing that commodity's price to bankruptcy level.

We believe it is in the national interest to keep our farm production capability in place so that in times of crop failure, drought, heat waves or other natural disasters, we are not faced with food shortages because we failed to protect our production base.

The National School Lunch Program enacted by the 79th Congress as Public Law 396 on June 4, 1946, stated as its purpose "to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities" and it has operated since that time as a major contributor to child nutrition throughout the United States.

Eighty percent of the Federal support for child nutrition programs is now provided as cash to be spent however the local food program administrators see fit. We believe it is important that the balance of support continue to be targeted to "encourage domestic consumption of nutritious agricultural commodities" and mandated by congressional action.

We believe it is important that Section 32 money support domestic agricultural production rather than being available for imports such as citrus juice from Brazil and Mexico, pineapple from Malaysia, sliced apples from China, beef from Australia or New Zealand.

Rural schools are well served by the commodity programs because they often have higher purchase prices because of transportation costs, distance and lack of competition among suppliers. The rural school lunch program is a source of jobs for local people with often limited employment opportunities, and who can use the raw materials in food preparation on-site rather than purchasing highly processed, more expensive foods.

The child nutrition programs are an important nutrition education and market development program for our rich variety of farm products. Children brought up on meat and potatoes in Nebraska may be introduced to rice and turkey and cranberries through use of commodities furnished to their schools.

Targeted commodity programs have been important in using our supply of dairy products which, it has been suggested, may have been the result of depressed feed grain prices following the Russian grain embargo. The consumption of dairy products under such programs as the Special Milk Program has meant that over 70 percent of the children who receive that milk supplement a lunch carried from home or consume it as the only lunch they have since they do not participate in other child nutrition programs.

The widely dispersed supply of food, the trained staff and equipped facilities should also be recognized as a great national civil defense support. In the event of national disaster which might interrupt transportation and normal supply channels, the school feeding and commodity storage outlets in over 3,000 counties can provide the on-site delivery of invaluable needed services.

In this period of increased budget constraints, we believe the targeting of tax dollars to focus on several national needs is a prudent and productive use of our resources.

ATTACHMENT I

NATIONAL FARMERS UNION'S WASHINGTON NEWSLETTER

FARM COSTS UP FOR 21ST MONTH; FARM PRICES DOWN FOR THE 4TH; PARITY LEVEL DIPS TO 63 PERCENT

Farmers' costs escalated for the 21st consecutive month in April, rising 1 percent from their month earlier level. Prices won by farmers for their products in April, however, declined 0.4 percent, the fourth straight monthly decline.

Farm production costs were pushed upward by higher prices for seeds, replacement livestock, feed and diesel fuel. Seed prices were up 20 percent and diesel fuel prices up 14 percent from their April, 1980, levels. On a monthly basis, replacement livestock prices increased 1.9 percent and feed prices were up 0.8 percent.

Lower prices for broilers, soybeans, wheat, corn and some vegetable and fruit crops in April more than offset higher prices for cattle, eggs and cotton. While farm prices were down from those reported in March, they were 16 percent higher than those of April, 1980.

The U.S. farm parity ratio declined from 64 percent in March to 63 percent in April, but was up from 60 percent a year ago.

Commodity	Parity price	April 15 price received	April 15 price as a percent of parity
Wheat, bu	$7.09	$3.99	56
Rice, cwt	20.60	13.70	67
Corn, bu	4.88	3.20	66
Oats, bu	2.62	2.04	78
Barley, bu	4.55	2.97	65
Sorghum, cwt	8.23	5.21	63
Cotton, lb	1.17	.754	64
Peanuts, lb	.414	(1)	(1)
Soybeans, bu	12.40	7.33	59
Flaxseed, bu	12.60	7.36	58
Beef cattle, cwt	92.20	59.80	65
Hogs, cwt	82.50	39.10	47
All milk, cwt	20.10	13.80	70
Manufacturing milk, cwt	17.89	12.80	71
Eggs, doz	1.11	.644	59
Wool, lb	1.96	.997	51

[1] No price reported.

Parity equivalent for manufacturing milk.

Source: "Agricultural Prices" Report, USDA.

ATTACHMENT II

USDA PURCHASES AND DISTRIBUTES COMMODITIES UNDER SEVERAL LEGISLATIVE AUTHORITIES

Section 32 (of Public Law 74-320) allows the government to remove surpluses of perishable, nonbasic commodities from normal channels. Commodities usually purchased under Section 32 are fruits, vegetables, meats, and poultry products.

Section 416 (of the Agricultural Act of 1949) authorizes USDA to donate foods acquired through price support activity. These are generally basic commodities such as dairy products, grains, oils, and peanut products.

Section 311 (of the Older Americans Act) requires USDA to donate a minimum level in commodities, or cash in lieu of commodities, to nutrition programs for the elderly funded under the Older Americans Act.

Section 4(a) (of the Agricultural and Consumer Protection Act) authorizes food distribution to Indians and participants in the Commodity Supplemental Food Program.

Section 6 (of the National School Lunch Act) requires USDA to provide States with a minimum level of commodity assistance for schools. In the event that full commodity assistance cannot be provided, Section 6 requires USDA to make up any short-fall in commodity assistance with cash in lieu of commodities. Section 6 authorizes USDA to buy a wide variety of preferred items that do not necessarily have to be in surplus.

Section 14 (of the National School Lunch Act) gives USDA special purchase authority to buy, with funds from Section 32 and Section 416, commodities at current market prices even though they do not meet surplus or price support conditions.

The foods USDA buys go to:

Children, through the National School Lunch Program, the Child Care Food Program, and the Summer Food Service Program. USDA foods also go to children in nonprofit summer camps, and schools that get USDA commodities but do not participate in the National School Lunch Program.

Needy households on Indian reservations and in the Trust Territory of the Pacific Islands.

Needy people in charitable institutions, such as hospitals and institutions for mentally or physically handicapped children and adults.

Elderly people and their spouses, through nutrition programs for the elderly, authorized by the Older Americans Act. Pregnant and breastfeeding women, infants and children up to 6 years of age who participate in the Commodity Supplemental Food Program, a special nutrition program for mothers and children who are at risk because of low income and poor diet.

People who live in a declared disaster area, if they are eligible for meals disaster relief agencies prepare and serve at central locations.

Mr. IRELAND. Mr. Smith?

Mr. SMITH. I just noticed a couple of statistics you had. They were interesting. One was the one about 86 percent of the food distributed under the direct distribution program as to school lunch.

Ms. KOBELL. Yes.

Mr. SMITH. That is because we put a provision in the food stamp program about 15 years ago, I remember when Mr. Jones of Missouri had the amendment that prohibits a county from having a direct distribution program if they also have a food stamp program. And as a result of that, in every instance, I think, when a county went out of the direct distribution, the number of people participating dropped dramatically. And almost every one of those people that got out of the program were the people that needed it the worst.

Ms. KOBELL. Yes.

Mr. SMITH. They were the elderly that wouldn't go to the store with food stamps but they would go to the direct distribution point, and they were the people that we used to use in the welfare department. If somebody came in and they had a need, we wanted to keep them off the welfare rolls and not get them started with that, so you give them $20 worth of commodities and maybe that is the last time you would ever see them.

But if you had to go through the welfare process, you get them on the roll and they don't want to leave the roll for fear they will have another need. And that's the reason I think we have gotten up to this 86-percent point.

That is really unfortunate in a way, and maybe that is part of our problem, because there is still the argument that school lunch, if we were not distributing surplus foods there, they would buy some of that. There was no doubt about the other people. They wouldn't be buying it, period, and maybe that is part of our problem. I don't know. I think that is an interesting statistic.

Ms. **Kobell**. Well, I think, again, the targeting value is important. There may be a need to pull some peaches off the market or to help with turkeys or the depressed beef prices, and this way you do combine the dual approach of targeting where the needs are and feeding people. And I am sure it would be much more difficult if you simply sent a memo in to the administrators in some 3,000 counties and say we have got a problem with pork, we would like to have you buy some more, or we have a problem in another field.

So I think that this is an effective tool which is very important to keep. And I certainly agree with you that we need to be able to reach the people most in need, and see that they are well served by commodity programs.

Mr. **Smith**. It would serve a good purpose if these hearings caused people like you to concentrate some more on trying to figure out ways that we can improve the program and can get the small business to participate as much as possible.

Ms. **Kobell**. Well, certainly I think it is important. I view things quite often from the viewpoint of the rural, small school system in which, by force, small business is served, because in many of those communities the only suppliers you have are small business concerns, although they are supplied with larger concentrations of food processing companies.

Mr. **Smith**. Thank you.

Mr. **Ireland**. Thank you. We appreciate your testimony.

I want to tell those in the audience, particularly the previous four witnesses, that I apologize for being absent for a time. There was a very critical vote in the Foreign Affairs Committee concerning the lifting of the grain embargo. It is one of those things that happens perhaps more to Mr. Smith than me. We are supposed to be in two places at the same time.

Mr. Smith, I appreciate your stepping in.

Mr. **Smith**. They might be interested in how it came out.

Mr. **Ireland**. The President's lifting of the embargo was sustained.

I had a series of questions that I think would be enlightening and beneficial both to the committee and to the previous four witnesses. Unless there is an objection from anyone that did testify, I would like to send my questions to you so that we will have the answers in the record as well. I am sure you would appreciate the opportunity to do that.

[Example of letter sent by Mr. Ireland to each of the last four witnesses and answers by the National Turkey Federation to the questions posed follow:]

House of Representatives,
Committee on Small Business,
Washington, D.C., May 27, 1981.

Ms. Ruth E. Kobell,
Legislative Assistant, National Farmers Union, 1012 14th Street, NW., Suite 600, Washington, D.C.

Dear Ms. Kobell: Due to a very important vote at a Full Committee meeting of the Foreign Affairs Committee, I was unable to be present for your testimony at our May 13 hearing. If I had been present, I would have asked you several questions. I will do so now and ask you to please respond in writing. The questions are:

1. How many companies do you have in your organization? How many similar companies are there in the nation? What percentage of your membership currently sells to the USDA commodity program?
2. Do you know of any of your members who would like to sell to the USDA but who cannot? If yes, why can't they?
3. Do you believe that the 30 percent of the current program which requires direct buying works well? Is there significant competition at the local levels? If yes, then why not allow more small firms in the commodity program? If no, why not?
4. Do you believe a significant number of the nation's commodity producers now supply the USDA?
5. Are you aware of any commodity producers who sell their product to the USDA then later are given a second contract to process the same product?
6. If the USDA allowed small firms into the procurement process, why wouldn't the same amount of commodities be bought? Why wouldn't they buy even more at competitive prices?

I would appreciate your answers for inclusion in our record by the close of business, Monday, June 15, 1981. I appreciate your cooperation in this matter.

Sincerely,

Andy Ireland, *Chairman.*

National Turkey Federation,
Reston, Va., June 1, 1981.

Hon. Andy Ireland,
Chairman, Committee on Small Business, Subcommittee on Export Opportunities and Special Small Business Problems, Washington, D.C.

Dear Mr. Ireland: This is in reply to your letter of May 27, in which you pose questions concerning the relationship between small business and USDA's commodity procurement program. We too, are sorry it was not possible for you to be present during our testimony, as your questions are more easily answered orally than in writing. Nevertheless, we will do our best to give you brief and to the point answers beginning at the top.

Question 1.

Answer. There are approximately 2,500 members of the National Turkey Federation. This includes a true cross-section of the industry . . . turkey growers, processing plants, breeder flock owners and hatcherymen. While the National Turkey Federation does represent the industry nationally, it is a strong grower oriented association, with many individual members.

As a matter of record, last year there were 23 industry companies receiving successful bids for the sale of turkey and turkey products. Obviously, there were more companies who bid, but whose bids were not accepted. We are not privy to the number of companies who actually bid for USDA purchases. The 23 successful bidders represent slightly less than 50 percent of those companies whose only activity is the slaughter, processing and sale of turkey. As indicated in our testimony before your Subcommittee, 59 percent of these companies are classified as small business by USDA.

Question 2.

Answer. No.

Question 3.

Answer. Due to insufficient factual background, we are not really qualified to answer this question. However, in hearings before the House Subcommittee on Elementary, Secondary and Vocational Education last year, there were several state school lunch people who alleged poor quality and poor service from local food distributors.

It appears to us that "significant competition at the local levels" may be true for school districts located in major metropolitan areas where there is access to many food distributors. On the other hand, we already have expressed our concern relative to "significant competition" with regard to school districts located in rural areas. It is our premise these schools only have access to maybe one, or possibly two, food distributors. In a very true sense they then become captive markets subject to lack of competition and shoddy service.

Question 4.

Answer. Yes

Question 5.

Answer. We are not aware of a particular situation of this type. However, should this be occasioned, it would provide certain economies of scale.

Question 6.

Answer. USDA does not preclude small firms from participating in the procurement process. USDA makes a public announcement of offers to purchase. Any firm in the country with product to sell has the opportunity of making an offer of purchase This is manifested by the fact mentioned earlier that 59 percent of the turkey companies receiving sucessful bids last year for School Lunch turkeys are classified as small business.

As far as competitive prices are concerned, USDA purchases turkey and turkey products as economically as they can be purchased. The reason for this is that they buy on a delivered basis and in carlot quantities based on the wholesale market. This is the most economical manner in which to purchase turkeys. For example, the price of turkey on a less-than-carlot basis is higher than the carlot price, while the price on a small number of boxes of turkey is even higher than the less-than-carlot price. There is no way a food distributor can provide turkey and turkey products to schools more economically than USDA, particularly when you figure the distributors have a markup of 20 to 25 percent.

You have not referenced a question concerning quality and nutritional value. Please see page 8 of our testimony. This relates that in 1979, USDA officials analyzed 21 types of food products purchased for use in School Lunch programs. Locally purchased foods bought by nine school districts were compared with USDA donated commodities at nine other districts. These were on-site inspections. The study concluded the Cooked Turkey Rolls were similar in terms of fat, moisture, total protein and salt. However, the amount of turkey meat in the product was significantly greater in the USDA donated product (81 percent meat), compared to the locally purchased product (52 percent meat). The protein value in the locally procured product was enhanced from the addition of vegetable protein, vegetable oil and nonfat dried milk . . . not from the meat segment of the turkey roll. This data supports our contention that commodities purchased and donated by USDA for School Lunch feeding are produced under enforceable specifications and standards, with emphasis given to quality and nutritional value. We question if the same can be said for all foods purchased locally for child feeding.

We appreciate very much, Mr. Chairman, the opportunity of submitting these comments to you.

Sincerely,

G. L. WALTS, *Executive Vice President.*

Mr. **IRELAND**. The next witnesses are from the New York Turkey Corp.

TESTIMONY OF ELI BARZVI, PRESIDENT; ARTHUR HUBERFELD, VICE PRESIDENT; AND ABE GELLIS, DIRECTOR OF GOVERNMENTAL CONTRACTS, NEW YORK TURKEY CORP.

Mr. **BARZVI**. I am Eli Barzvi and with me is Mr. Arthur Huberfeld, vice president, and Abe Gellis, director of government contracts. Arthur Huberfeld will begin.

Mr. **HUBERFELD**. Mr. Chairman, distinguished members of the subcommittee, we wish to thank you for your kind invitation to appear before your committee, and the opportunity it presents to speak out on behalf of USDA procurement programs, and the many members of the small business community substantially dependent upon these programs.

Within hearings held 1 year ago this past March, under the auspices of the Subcommittee on Elementary, Secondary, and Vocational Education of the House Committee on Education and Labor, our company was one of two singled out as having the magnitude to limit the competitive bidding process required by USDA for the procurement of turkey rolls for the national school lunch program. By inference, certainly not by fact, New York Turkey Corp. was defined as a synonym for both domination and control.

Today, let the facts speak for themselves. Some 5 to 6 years ago our company was virtually insolvent, bordering upon dissolution in bankruptcy; indeed, we were, by any definition, a small business. Lacking the financial capacity to adequately compete in the private sector marketplace we were continually seeking market opportunities which required technical expertise and production capacity, as a priority to costly marketing and sales programs.

Finding this market opportunity within the school lunch program, we were able to gather our technical resources together, within the controlled and disciplined environment mandated by USDA specifications, for the purpose of commencing production of school lunch turkey rolls. With only minor exception, we defected from the more costly atmosphere inherent to service within the private sector, and devoted a most substantial part of our energies to school lunch programs and other Government work. Indeed, our level of expertise improved dramatically as greater opportunities for volume production were presented; as a consequence of these operations, we regained our total credibility within the turkey industry and, through this day, we remain highly regarded for our service to USDA, and our reliability in support of its procurement programs.

In spite of a compelling necessity to calculate bid prices on a marginal basis in relation to costs of production for USDA commodities, the ensuing years have been good to New York Turkey, providing us with a profit base for reinvestment within our company. As a direct result of our reinvestment policy, we have enjoyed a period of outstanding growth enabling us to extend our programs well beyond their original form. Notwithstanding this, we are now, as we were in the past, still a small company, and still deeply dependent upon viable Government programs for the procurement of food products.

Continuation of the current programs, in substantially the same form, is vital to the interests of the turkey industry, which is predominantly comprised of small businesses. Farmers, growers, feed companies, slaughterers, further processors, box manufacturers, truckers, and others are all links in the chain which brings forth commodities.

While we are not a protectionist society, we must respect the needs of the agricultural community for price support and surplus removal. This can be best accomplished through vigorous, hard-hitting and efficient Government programs. In respect to the turkey industry, the commodity procurement programs, coming under review today, represent the only protection offered under Government sponsorship. The alternatives introduced by Congressmen Ford and Goodling, within H.R. 3077 do not adequately respect the needs of the agricultural community, nor do they reflect positively, in terms of opportunity, for the myriad of small business organizations which form the framework for our industry.

In a vital society the advent of change is inevitable. The tendency toward change becomes even more compelling when the inflationary spiral causes the type of economic distresses we are currently experiencing. There is no question in our minds that the present commodity procurement programs require specific forms of revision, in that certain major elements thereof have remained in place for years, while requirements and conditions in school food service have changed graphically. However, the specific changes required must not, in any sense, impair the underlying philosophy of the programs, that being the price support protection for growers and the orderly removal of surplus commodities.

The proponents of H.R. 3077 theorize that this bill proposes an efficient, streamlined, and rational system for accomplishing the many goals of the commodity programs. Basically, it offers the most simplistic of solutions: cash. The sponsors of the bill maintain the following:

(a) Savings can be achieved without any reduction in the number of pounds of price support and surplus agricultural foods moved to these school lunch programs. Our comment: How can anyone measure this movement with any degree of accuracy or certainty?

The legislative sponsorship claims that this bill would give school systems the ability to buy commodities in a form more suitable to each individual program. Therefore, measuring surplus removal would, as a practical matter, be impossible.

(b) Congress and USDA will determine which commodities are in need of price support and surplus removal, and will retain the right to determine the amounts of these commodities which should be moved off the market. We comment: If in fact the foregoing is accurate, why then do the sponsors of the legislation disclaim USDA's right to make direct contact with the States or school systems for purposes of determining amounts and quality of the commodities to be purchased? There appears to be a contradiction in Representative Goodling's statement of April 28, before this committee.

(c) USDA will retain the responsibility for giving the schools help in making them intelligent buyers? Our comment: We presume that an adequate level of intelligence exists within the school food service community, as best exemplified by the fact that they acquire approximately 80 percent of their requirements without the direct help of USDA.

However, we do agree that to satisfy the commitment USDA has to industry-at-large, and more specifically the turkey industry, it must control the purchasing, distribution, and handling of commodities, albeit on an efficient basis.

In no other reasonable fashion can USDA be assured that the appropriate quantities are being purchased, that prices paid for commodities are reasonable to the cogent circumstances and that the quality of foods delivered to the school systems satisfy all the parameters attendant with child nutrition.

Mr. Chairman, distinguished members of the subcommittee, notwithstanding the inevitability of change, and a need for modernization and restructuring, we cannot believe that the consummate wisdom of the Members of Congress will permit the legislating of a placebo, as a valid substitution for a program as important as commodity procurement.

In our considered opinion, the subcommittee has been given the impression that USDA has been permitting an arthritic syndrome to envelop its commodity procurement programs; this is patently incorrect. Within the turkey procurement program numerous changes have been made, the most prominent of which is the commodity B program.

Simply stated, commodity B procurement permits school systems and/or districts, working through their State distributing agents, to determine in what form they wish to receive commodities allocated to them by USDA. Under this system, USDA totally controls the commodity purchasing, while State agencies control the form in which products derived from these commodities come through the food service system. Product specifications are on file with the State agencies, along with price and yield information for each product to be delivered. The interests of the States and their respective subdivisions are protected, and the fulfillment of USDA's goals are insured.

If we can accept the concept that "one look is worth a thousand words," then let us examine a success story in commodity processing, emanating from the home State of the distinguished chairman of this committee, Mr. Ireland's State of Florida.

Between January 19 and March 2, 1981, 15 truckloads of freshly slaughtered turkeys were delivered to our plant in Maspeth, N.Y., representing 522,657 pounds of commodity purchases allocated to the State of Florida. Our contract for processing these turkeys is on file with USDA, which contract was executed with the food distribution office of Florida's Department of Health and Rehabilitative Services. The selection of foods to be custom processed from these turkeys was made by each of the counties participating within the allocation. And I might say as an aside that Hillsborough County was included within that. The food service directors involved within this decisonmaking process represented the school systems from 21 different counties.

Between January 26 and March 15, 1981, the following products were delivered to distribution points assigned by each participating county: cooked turkey roast, raw turkey roast, turkey ham, turkey salami, turkey bologna, turkey frankfurthers, ground turkey meat, white meat turkey roll, and combination meat turkey roll.

The elements of cost involved for this processing were as follows: (1) USDA cost for turkeys delivered to Maspeth, N.Y., (2) custom processing charge inclusive of delivery to distribution points, (3) initial warehouse costs, (4) pick up or delivery costs, ex warehouse.

The State of Florida recognizes, as we do, that it is not possible to fulfill the requirements of the State's school systems, in relation to their demand for products emanating from turkey, under any other system or procedure. The verities inherent to commodity processing are best exemplified by the following: (1) economy in purchasing, processing, and delivery; (2) product variety unavailable through local channels; (3) absolute requirements for child nutrition are achieved; labeling requirements warrant this, and USDA controls the system of monitoring; (4) ethnic and/or colloquial tastes are satisfied. The product mix is predetermined by food service directors who are in direct contact with the children they feed.

While we focused solely upon the most recent contract for the State of Florida, it should be noted that we had previously custom processed 699,532 pounds of commodity turkeys within the same school year.

The synergism for this program was created through the combined efforts of skilled professionals, all with one thought in mind—preserve the integrity of the program, its various purposes and its future ambitions. The food distribution office of the State of Florida, under the firm leadership of Jim Kreinest, worked long and arduously with officials of USDA and representatives of various processing companies, all to the enhancement of the program and the ultimate gain to the student population of the State of Florida.

Mr. Kreinest has many counterparts throughout the country working to the same end. Demographic circumstances oftentimes dictate different policies or procedures; but basically, the goals are quite the same. Currently, the States of New York, New Jersey, Pennsylvania, Michigan, Connecticut, Rhode Island, Virginia, Oklahoma, and Arkansas participate within commodity B processing, and there are more coming.

As this program enlarges, the benefits to be derived will become obvious to all, and they will stand as a clear tribute to those involved with program design and implementation. No, USDA is not standing still, nor has its thinking become archaic. If we, of industry, lend our helping hand, the collective interests of all will best be served.

Even as we meet today, various officials of USDA are examining the terms of a proposal we submitted to them for extension of the existent procurement programs for beef and pork. The thrust of this recommendation calls for the commencement of a commodity B-type program, with carcass beef and pork as the basic commodities.

We have explored the potential for this program with experts in the beef and pork industries, and have received great encouragement from them during the course of our discussions. They clearly perceive of the numerity of advantages which should accrue to school food service directors, as well as to their own industry. In terms of both total cost and portion cost a viable opportunity is apparent, and this, without adverse effect to the beef and hog producers.

While in the area of costs, we cannot ignore the numerous comments made in respect to excessive transportation and/or warehousing costs attendant with commodity distribution. The logistics involved are oftentimes unwieldy, but not so impossible that they cannot be efficiently satisfied. In many instances, direct distribution to State warehouses or designees is both practical and efficient. In others, the most desirable approach is to function through local distributors who are regularly called upon for delivery of other products.

As stated previously, policy and procedure are often dictated by demographics. To achieve optimum results, however, representatives of all segments of industry, slaughtering plants, further processors, food service distributors, refrigerated warehouse companies, must counsel collectively with USDA and the school food service community to initiate and implement comprehensive plans for improvement of the current systems.

It is our firm belief that the results of these efforts will prove to be of such substance that through the elimination of misunderstanding, waste and excessive costs, USDA and the school food service community will be encouraged to enlarge upon the procurement programs well beyond their present scope.

It is our collective responsibility to devote ourselves to the search for viable solutions wherein the rights, priorities and interests of all will be protected and enhanced.

Thank you.

Mr. **Ireland**. Thank you. We are pleased to have you here this morning.

Let me reiterate as I have done a number of times, the focus of the subcommittee. The focus, I would emphasize again, is not on the commodity program itself; that is the function of other committees of the Congress. Our focus is on the ability of small business to compete in procurement.

Now, in doing this we hear lots of horror stories about the distribution system, the ability to bid and the ability to compete. The focus, however, and I think it should be underlined at this point, is on whether the small businessman can compete, and we will continue to move forward on that. I would point that out as the ground rules for what this committee is all about so there is no misunderstanding.

You refer to other businesses involved. Wouldn't you agree that in all these areas the farmers, the feed companies, slaughterers, processors, wouldn't you agree that regardless of whether it was all cash or not, all these people would participate? Am I not correct?

In fact, probably more of them would participate since some of that distribution is now being done by Federal employees of the USDA. So wouldn't you agree that if there was an all cash program we wouldn't be stamping out those other people along the distribution line?

Mr. **Barzvi**. No. I think that if we did it, we wouldn't have small business participating in distribution but it needs to go to all places, to all schools. There is no small distributors if we do not have the support of the commodity to go with.

The other product that can go to schools that anybody would be able, except for the very big companies who have the more sophisticated distributions to go to the schools. So we are going to turn all that business from the small distributor to the big distributor that can do that.

Mr. **Ireland**. I think you missed my point. Whether it is done through the commodity program or done in all cash—the 20 percent—those intermediaries that you refer to in your testimony, not yourselves, not the direct contact, all those intermediaries are going to participate regardless.

Feed companies are going to be there regardless. Slaughter companies are going to be there regardless. You don't have anything to do with them, you are buying from them. So I just want to point out and have you acknowledge that the inference that changing the program would eliminate them is inaccurate. They are going to be there whether you are doing it or whether somebody else is doing it.

Mr. BARZVI. Well, I think that they would be able to buy them. I have no doubt that it would be very hard for them to spend cash money. It would be very easy. Cash money is easy to spend. But those quantities that we are talking about, they will buy the right quantity or the right product or the right quality is most important I think than anything. They wouldn't be able to buy quality. They would not buy quality. I will give you some examples, maybe, that would clear a lot of that up.

Mr. IRELAND. I am not saying do it one way or the other. I am saying, regardless of the way we do it, the feed company, the slaughter company, all those people will be doing business.

The inference I took from your testimony is that somehow not doing it the way we are doing it with this 20 percent is going to eliminate some of those people and that isn't so.

In mentioning the example from Florida, and I appreciate your directing it to my State, the turkeys purchased, the 522,657 pounds were purchased where?

Mr. BARZVI. In the Midwest. Anybody who bid on it and got the bid, on a bid basis.

Mr. IRELAND. Not necessarily in some place as close as Georgia or Florida? It wasn't in Florida?

Mr. BARZVI. The low bidder.

Mr. IRELAND. Not from Florida or Georgia or anyplace in the Southeast?

Mr. HUBERFELD. Mr. Chairman, in this particular case those specific turkeys came from the State of Virginia.

Mr. IRELAND. My question obviously is directed at the fact that they do grow turkeys in Georgia and Florida, which is in the same area.

You are aware of how many counties there are in the State of Florida?

Mr. HUBERFELD. Not completely, sir.

Mr. IRELAND. Well, there are 67 of them.

Mr. HUBERFELD. Well, I think some of the counties, because of their size or the ability or lack of ability to acquire these products, gathered some of their resources together and one county may be ordering it but for possibly several different counties. Some of the quantities can get very, very, very small and part of the benefits of the program are that every county could be served. There is some commingling between the counties. This is done throughout the country. They cooperate with one another.

Mr. IRELAND. You say the State of Florida recognizes, as we do, that it is not possible to fulfill the requirements of the State school systems in relationship to their demand for turkey products emanating from any other system of procedures. Do you have something in writing or something that says that that is the view of the State of Florida?

In other words, what State official made that pronouncement?

Mr. HUBERFELD. Well, it certainly does come out of the State distributing agent's office. But I think that if I could just find the page, we gave a listing of the items here, and one of the most popular items in the State of Florida, for very, very good reason, is the cooked turkey roast.

To the best of our knowledge, there is no other processor selling in the State of Florida that delivers that particular product. It just happens to be a very, very special item; from a personal standpoint that is the finest product we could find on that list, or on many lists of items that use breast meat and thigh meat from turkey.

So not to pick at that point, sir, if no distributor were carrying the cooked turkey——

Mr. **IRELAND.** I think we have to let other people speak for themselves.

Mr. **HUBERFELD.** In relation to this, we have had personal discussions and the entire program design has been very, very carefully set up.

Mr. **IRELAND.** Toward the end of your testimony you say:

> It's our firm belief that the result of these efforts will prove to be of such substance that through elimination of misunderstanding, waste and excessive cost, USDA and the school food service community will be encouraged to enlarge on the program.

I assume that you then agree, like Congressman Coelho who testified earlier, that there is substantial waste and excessive cost? That is what you say, correct?

Mr. **BARZVI.** No, we didn't mean it that way exactly, that there is direct waste. I don't think that the testimony representing the turkey industry says that there is any waste. I think that the turkey products are working right and have no problem with distribution.

Mr. **IRELAND.** In your testimony you say there is waste and excessive cost.

Mr. **BARZVI.** We mean waste and excessive cost in certain other territories that might be able to combine together distribution only, that would distribute Government and private products that the schools buy and by doing that instead of having two distribution centers or two distributors going with two different products to that same school, combining the two of them together to ship one distributor all the products need for the schools.

Obviously it needs a lot of work and I don't think that I am qualified to do that or to suggest much more. It is just what I hear from all kinds of people talking.

Mr. **IRELAND.** So you hear a lot about waste and inefficiency, too?

Mr. **BARZVI.** Yes; and there may be distribution to agencies or distributors distributing the project to the school. There may be many where one could do the job.

Mr. **HUBERFELD.** Mr. Chairman, I think that I can direct it to marketing programs and so forth for the turkey industry, and I think that one of the major problems here, certainly what we refer to as excessive costs or some of the waste and so forth are all to be heaped on the shoulders of USDA. Certainly we are discussing procurement programs. A good deal of this waste that we refer to and the excessive cost that we refer to are coming about as a result of the fact that the very important elements, processing and distribution and certainly on the receiving end the school food service community have not really sat down to discuss how to eliminate this.

There has been much more, shall we say, knocking heads, let the distributors fight the processors, let the processors fight somebody else, and so forth. That, in and of itself, creates its own form of waste, because the call has been for complete and total change even to the extent of elimination rather than people sitting down and discussing the whys, the wheres, and the hows. We are certainly wasting our efforts as good businessmen.

Mr. IRELAND. I think people are talking about elimination because it is not being accomplished any other way and, as the gentleman says, he recognizes and hears of waste, that is why so many people keep harking back to the fact that the free enterprise and free market system can be a lot more efficient than bureaucracy.

The cry for elimination shouldn't be surprising when, as you say, no one has taken steps to cure the very waste and inefficiency in the distribution system that the gentleman refers to.

How many employees do you have?

Mr. BARZVI. 120.

Mr. IRELAND. Give us an idea of your gross sales so that we can get an idea of the size of the business?

Mr. BARZVI. $20 million.

Mr. IRELAND. We are interested in various products that you provide. I know you have given us in your testimony eight or nine. Could you furnish us with a list of the products that you supply to the USDA? Would that be convenient to do?

Mr. BARZVI. About $12 million.

Mr. IRELAND. About $12 million of your $20 million sales?

Mr. BARZVI. Yes.

Mr. IRELAND. And could we have a list of products that you supply to the USDA?

Mr. BARZVI. Only one product. To the USDA, one product only.

Mr. IRELAND. One product only?

Mr. BARZVI. There is one product the USDA buys from me, the turkey roll.

Mr. IRELAND. In your testimony on page 5 you speak of a list of products?

Mr. BARZVI. The conversion of commodities that the USDA buys the commodity beef for the State instead of frozen Grade A turkeys that they want to be converted into different products, and that is what we do.

We take their turkeys and we convert it into different products for them. There is a big list of the products that they choose to pick up.

Mr. IRELAND. How many other companies supply the product that you supply?

Mr. BARZVI. The commodity B?

Mr. IRELAND. No, that you supply to the USDA?

Mr. BARZVI. I would say four more that want to.

Mr. IRELAND. How many others in the United States could supply it?

Mr. BARZVI. Anybody.

Mr. IRELAND. I mean that are in the business?

Mr. **Barzvi**. Anyone who wanted to could bid and supply. There is no limitation to anybody to go and buy it.

Mr. **Ireland**. I understand that, but the filling station operator isn't going to supply it. Now how many people that are in the same business that you are in could supply it?

Mr. **Barzvi**. How many Federal processors do we have in the industry?

Mr. **Walts**. I would say 25 or 30.

Mr. **Barzvi**. They are capable of producing the same product that I do.

Mr. **Ireland**. Twenty-five or 30 and you say 4 of you do?

Mr. **Barzvi**. Four or five want to get the bid and other companies would bid that don't want to get the bid or they are too busy to get it or they don't want it.

Mr. **Ireland**. Is there a USDA standard?

Mr. **Barzvi**. A standard for making the product, of course, there is specs, and standards and inspectors and everything.

Mr. **Ireland**. Can all 30 of these people that you have mentioned meet the standards?

Mr. **Barzvi**. Yes, everybody can meet the standard.

Mr. **Ireland**. Can that same product be purchased at retail?

Mr. **Barzvi**. No, not that we know of. We don't make that product for retail.

Mr. **Ireland**. Can you give me a reason why you don't?

Mr. **Barzvi**. It is a very high quality product the Government buys. The Government specs for buying that product is a very high quality product.

Mr. **Ireland**. If it is high quality, why not sell it at retail?

Mr. **Barzvi**. Because they won't buy it. They don't want to pay.

Mr. **Ireland**. Why would they not want to buy it? If it is such a good product, I think it is a logical question why don't people want to buy it?

Mr. **Barzvi**. Here is a product that is a roast turkey that industry is used to only white meat. This is white and dark. They buy the turkey breast. The Government needs to remove the whole turkey out of the market. The product that you can make to remove the whole turkey out of the market and use every part of that turkey into a product is that one which is the turkey roll white and dark and the natural proportion of everything that goes in.

Mr. **Ireland**. What you are telling me is you don't sell it at retail because nobody will buy it.

Mr. **Barzvi**. No; I don't mean it that way. When the Government buys it it buys it that way. The Government has a point that they have to remove the whole carcass, not only part of the turkey, not only the white meat that is very popular in the market and the chain store, it's the whole turkey. The best product that you can make from the whole body turkey can be used in is that turkey. If you go by the natural proportion of the turkey, it makes it a very high quality turkey.

We make that product for the schools. This is pure meat, white and dark, and it is only 6 percent fat. It has no water added and it has about 20 percent protein. The product sold today retail has 10 percent added water minimum, some skin emulsion added to it. It would have maybe 16 percent protein.

Mr. Ireland. We could make the conclusion from this that since people won't buy it on the retail market——

Mr. Barzvi. No, it is not what you are trying to tell me, that people will not buy it because it is not good. When you go to the market, the price for it——

Mr. Ireland. I am not saying whether it is good or bad. But if it is something they wanted——

Mr. Barzvi. Then we will sell it to them. The schools buy it. When you combine a turkey product and you leave separate products and cuts, this would be $2 a pound, this would be $1.60 a pound. You combine them into here and it becomes an average reasonable price that they can feed the children.

Mr. Ireland. But what we are saying here is that it is not what people want that is deciding this product's sales, it is how the USDA says that it is produced. Otherwise you could go out and sell the product on the market, which obviously you don't because nobody will buy it.

Mr. Huberfeld. Mr. Chairman, there are several segments to our industry. You have, of course, the food service industry, which takes into account the school system certainly, mass feeders. We have the retail which encompasses several things, the retail buying for your family raw products and then, of course, we have the deli and appetizing segment.

The products for each segment of sale are different. As an example, cooked turkey rolls are very, very popular in institutional-type feeding, sandwich making, salad making. There where you are feeding numbers of people, these products, which of course have to go on high-speed slicing machines and so forth, have proven over the years to be very, very efficient.

In the retail markets, the point that Mr. Barzvi was making, for example, the breast is the most popular item. Breast meat is what the retailer market is seeking. The food service industry seeks something entirely different. So we are talking about different levels of eating.

We do eat somewhat different, let's say, in our homes than we would in restaurants or we would in cafeterias. Basically the products we produce either under USDA auspices or for school systems are institutional and/or food service type products.

Mr. Ireland. What about the Defense Department? They purchase an awful lot. Do they purchase the same thing from you?

Mr. Barzvi. Yes.

Mr. Ireland. If I may, you had $12 million out of $20 million from USDA. How much do you sell to the Defense Department?

Mr. Barzvi. About $1 million.

Mr. Ireland. Is there any particular reason for that that you are aware of?

Mr. Barzvi. No, they buy more now at Thanksgiving of the roast turkey or the turkey roll but I don't know.

Mr. Ireland. What about a product that is akin to this that we have heard talk about in our previous testimony called hambone poultry? Some people refer to it as spent hen. Is that something you produce?

Mr. **Barzvi**. We don't make it.

Mr. **Ireland**. Who does?

Mr. **Gellis**. Those are mainly the egg people. That's an egg program. It's not a poultry program.

Mr. **Ireland**. It's not eggs. Who cans the poultry, do you know?

Mr. **Gellis**. Well, I know there are some canners in the South and on the west coast, some of the Midwest.

I would like to interject for a minute here, talking about the military. I have read Congressman Ford's testimony and he has stated that the Defense Department has refused to purchase or use the commodity turkey roll, the same size, the same specs. Presently we are supplying the DPSE at exactly the same specs.

For the last year or year and a half, the military has switched over to the USDA commodity turkey roll, and their orders are continuously increasing. And it seems to be a proper product.

We would also like to perhaps introduce this into the record. The New York State Department on Hygiene also has purchasing power to buy these turkey rolls. They also have gone to the USDA spec. And just to show you the contrast in price, if you buy directly from the producer or you go through a distributor, the awarded price was to us, who are located in New York, at $93.85, and various other producers have gone $111.99 and $114. There was one distributing company trying to sell to the department of hygiene for $147. So you can see what will happen when we go completely to cash and there will be no competition as far as certain products are concerned. Distributors will have a great advantage of charging a lot more, especially if the USDA will come out and say we have got to remove turkeys.

Distributors will know that schools have to buy it, and we will have the action of increasing prices.

Mr. **Ireland**. I will be glad to put that in there, but I find it difficult to follow your logic if it were all cash that would eliminate distributors. That isn't going to happen. Somebody is going to fill that void.

Mr. **Gellis**. Well, in certain areas we know we cannot go in without a distributor. As a matter of fact, with distributors that is the only way in most areas we can sell our product. We know in certain areas it is done in a lotter better way, and cost savings, through the USDA system right now.

I would like to also submit for the record cooked turkey roll that the military has purchased from us through contracts. As you know, also these contracts are small business set asides. Here we have a contract basically in the same time period of 38,000 pounds at $96.99. Well, basically in the same time timeframe they have purchased the same product, same specifications, 4,000 pounds at $1.25. So here you have a living example of consolidated purchases, not much difference in price with the same exact product.

What I am trying to bring out is if the USDA purchasers give the best price or best cost to the recipients as far as turkey products are concerned.

Mr. **Ireland**. We will put your figures in the record.

[The information referred to follows:]

Group No. 01404 Proposal No. 286 Combination Turkey Roll OGS	Lbs.	Longmont Foods	Shenandoah Food Processors	H.W. Longacre	New York Turkey Corp.	Smith Packing
Deliver to Upstate Distribution Center, Schenectady, New York.						
Item 1 - Cooked, Roll, Frozen	40000	1.1187	.99	1.149	.9385	1.47
Initial Delivery		week of 7/6/81	7/6/81	7/6/81	7/8/81	
Delivery A/R/O		2 weeks	10 Days	10 Days	10 working Days	2 weeks
Processor		Bidder	Bidder	Bidder	Bidder	Cote
Net wgt. per roll		10#	10#	9#	10#	10#
Net wgt. per case		40#	40#	36#	40#	40#
Gross wgt.		41.75	41.64#	37#	41½#	42#
Gross vol.		1.10	.606	.49	1.32	
Commodity palletized?		Yes	Yes	Yes	Yes	Yes
Deliver to Downstate Distribution Center, Central Islip, Long Island, New York.						
Item 2 - Cooked, Roll, Frozen	26600	1.1187	.99	1.149	.9385	1.47
Initial Delivery		Same	Same	Same	Same	
Delivery A/R/O		Same	Same	Same	Same	Same

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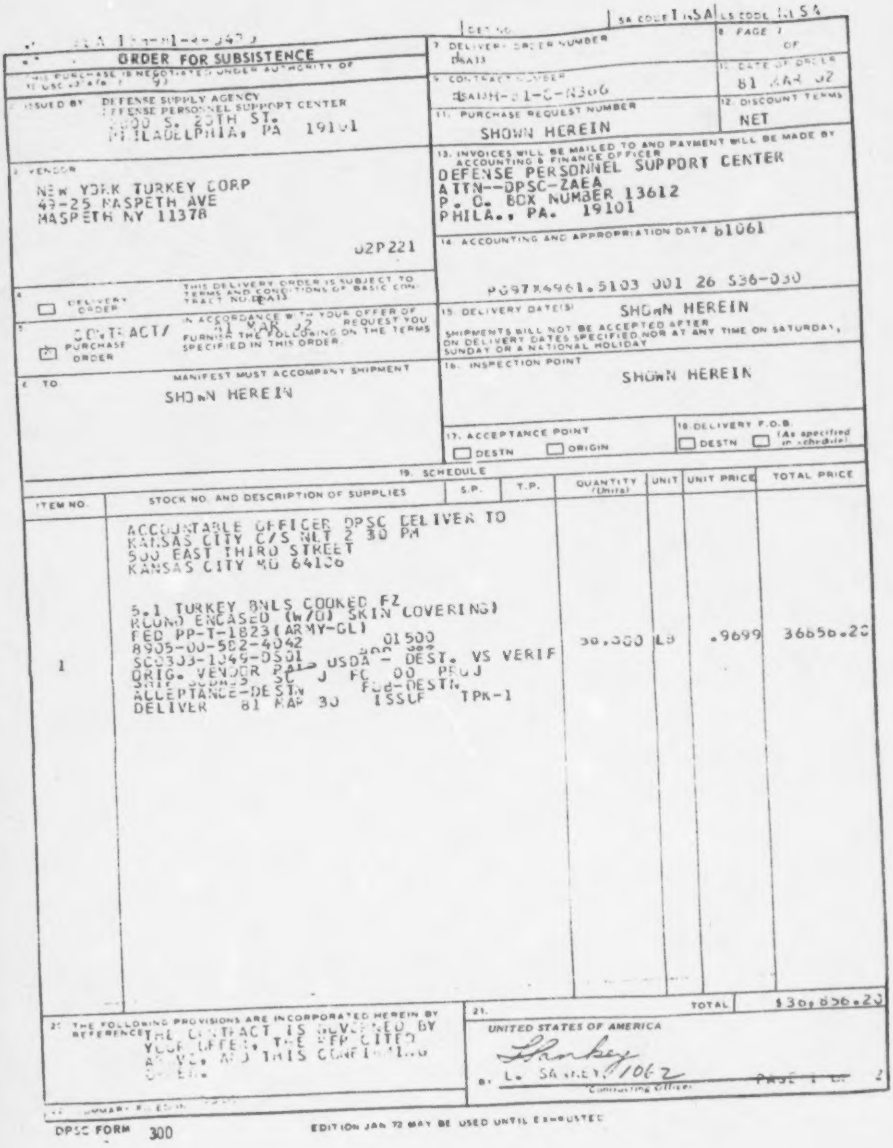

SA CODE 1 NSA | LS CODE 1.1 S4

DET NO.

ORDER FOR SUBSISTENCE

THIS PURCHASE IS NEGOTIATED UNDER AUTHORITY OF 10 USC 2304(a) (9)

7. DELIVERY ORDER NUMBER: DSA13

8. PAGE 1 OF

9. CONTRACT NUMBER: DSA13H-81-C-R306

10. DATE OF ORDER: 81 MAR 02

11. PURCHASE REQUEST NUMBER: SHOWN HEREIN

12. DISCOUNT TERMS: NET

2. ISSUED BY
DEFENSE SUPPLY AGENCY
DEFENSE PERSONNEL SUPPORT CENTER
2800 S. 20TH ST.
PHILADELPHIA, PA 19101

3. VENDOR
NEW YORK TURKEY CORP
49-25 MASPETH AVE
MASPETH NY 11378
02P221

13. INVOICES WILL BE MAILED TO AND PAYMENT WILL BE MADE BY ACCOUNTING & FINANCE OFFICER
DEFENSE PERSONNEL SUPPORT CENTER
ATTN--DPSC-ZAEA
P. O. BOX NUMBER 13612
PHILA., PA. 19101

14. ACCOUNTING AND APPROPRIATION DATA 61061
PG97X4961.5103 001 26 S36-030

4. ☐ DELIVERY ORDER — THIS DELIVERY ORDER IS SUBJECT TO TERMS AND CONDITIONS OF BASIC CONTRACT NO. DSA13

5. CONTRACT/ ☒ PURCHASE ORDER — IN ACCORDANCE WITH YOUR OFFER OF 81 MAR 02 REQUEST YOU FURNISH THE FOLLOWING ON THE TERMS SPECIFIED IN THIS ORDER.

15. DELIVERY DATE(S): SHOWN HEREIN
SHIPMENTS WILL NOT BE ACCEPTED AFTER ON DELIVERY DATES SPECIFIED NOR AT ANY TIME ON SATURDAY, SUNDAY OR A NATIONAL HOLIDAY

6. TO: SHOWN HEREIN
MANIFEST MUST ACCOMPANY SHIPMENT

16. INSPECTION POINT: SHOWN HEREIN

17. ACCEPTANCE POINT: ☐ DESTN ☐ ORIGIN

18. DELIVERY F.O.B.: ☐ DESTN ☐ (As specified in schedule)

19. SCHEDULE

ITEM NO.	STOCK NO. AND DESCRIPTION OF SUPPLIES	S.P.	T.P.	QUANTITY (Units)	UNIT	UNIT PRICE	TOTAL PRICE
	ACCOUNTABLE OFFICER DPSC DELIVER TO KANSAS CITY C/S NLT 2 30 PM 500 EAST THIRD STREET KANSAS CITY MO 64106						
1	5.1 TURKEY BNLS COOKED FZ ROUND ENCASED (W/O) SKIN COVERING) FED PP-T-1823(ARMY-GL) 01500 8905-00-582-4042 SC0303-1049-D501 USDA - DEST. VS VERIF ORIG. VENDOR PAID SC J FC 00 PROJ ACCEPTANCE-DESTN FOB-DESTN DELIVER 81 MAR 30 ISSUE TPK-1			38,000	LB	.9699	36856.20
						TOTAL	$36,856.20

22. THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE: THE CONTRACT IS GOVERNED BY YOUR OFFER, THE RFP CITED ABOVE, AND THIS CONFIRMING ORDER.

21. UNITED STATES OF AMERICA
L Sankey
BY L. SANKEY, 1062
Contracting Officer
~~PAGE 1 OF~~ 2

SUMMARY FILED IN

DPSC FORM 300 EDITION JAN 72 MAY BE USED UNTIL EXHAUSTED

BEST COPY AVAILABLE

13H-1-R-5?26

ORDER FOR SUBSISTENCE

7. DELIVERY ORDER NUMBER	8. PAGE 1 OF
9. CONTRACT NUMBER DSA13 6-81-C-K382	10. DATE OF ORDER 81 APR 30
11. PURCHASE REQUEST NUMBER SHOWN HEREIN	12. DISCOUNT TERMS NET

1. ISSUED BY
DEFENSE SUPPLY AGENCY
DEFENSE PERSONNEL SUPPORT CENTER
DSO CHEATHAM
DSC CHEATHAM ANNEX
WILLIAMSBURG, VA 23185

3. VENDOR
NEW YORK TURKEY CORP
49-25 MASPETH AVE
MASPETH NY 11378

C2P221

13. INVOICES WILL BE MAILED TO AND PAYMENT WILL BE MADE BY ACCOUNTING & FINANCE OFFICER
DEFENSE PERSONNEL SUPPORT CENTER
ATTN--DPSC-ZAEA
P. O. BOX NUMBER 13612
PHILA., PA. 19101

14. ACCOUNTING AND APPROPRIATION DATA 81123

PG97X4961.5103 001 26 536-030

4. — DELIVERY ORDER — THIS DELIVERY ORDER IS SUBJECT TO TERMS AND CONDITIONS OF BASIC CONTRACT NO. DSA13

5. CONTRACT/ ☒ PURCHASE ORDER — IN ACCORDANCE WITH YOUR OFFER OF 81 APR 30 REQUEST YOU FURNISH THE FOLLOWING ON THE TERMS SPECIFIED IN THIS ORDER.

15. DELIVERY DATE(S) SHOWN HEREIN

SHIPMENTS WILL NOT BE ACCEPTED AFTER ON DELIVERY DATES SPECIFIED, NOR AT ANY TIME ON SATURDAY, SUNDAY OR A NATIONAL HOLIDAY

6. TO MANIFEST MUST ACCOMPANY SHIPMENT

SHOWN HEREIN

16. INSPECTION POINT SHOWN HEREIN

17. ACCEPTANCE POINT ☐ DESTN ☐ ORIGIN

18. DELIVERY F.O.B. ☐ DESTN ☐ (As specified in schedule)

19. SCHEDULE

ITEM NO.	STOCK NO. AND DESCRIPTION OF SUPPLIES	S.P.	T.P.	QUANTITY (Units)	UNIT	UNIT PRICE	TOTAL PRICE
	SUPPLY OFFICER CODE 301.3 NLT 2PM DELIVER CHILL ITEMS TO BLDG Z-99 FROZEN ITEMS TO BLDG CEP 156 NAVAL SUPPLY CENTER NORFOLK VA 23512						
1	1.1 TURKEY ROLLS COOKED FZ ROUND ENCASED (W/O) SKIN COVERING) FED PP-T-1923 (ARMY-GL) 8905-00-582-4042 01500 N00189-1077-8304 RDD-142 ORIG. VENDOR PAID USDA - DEST. VS VERIF SHIP N00189 SC A FC NS RPCJ ACCEPTANCE-DESTN FOB-DESTN DELIVER 81 MAY 22 ISSUE TYK-2			4,000	LB	1.2500	5000.00
	NO SOF REQUIRED						

20. THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE: THIS CONTRACT IS GOVERNED BY [illegible] THE DEL [illegible] THIS CONFIRM [illegible]

21. TOTAL

UNITED STATES OF AMERICA

BY FRANCIS J. LEAHY
CONTRACTING OFFICER

ST FORM 300

BEST COPY AVAILABLE

Mr. IRELAND. We were talking about where turkeys are purchased. You said the ones going to Florida are purchased in Virginia. Where do you buy most of your turkeys?

Mr. HUBERFELD. If I may, Mr. Chairman, I indeed want to answer your question. You did ask about turkeys in Georgia. I'm unfamiliar with the producers of turkeys in Georgia. I don't know of any plants in the States of Georgia or Florida slaughtering turkeys. But when you ask this question, are you asking about turkeys that have gone into commodities?

Mr. IRELAND. No. I am asking where you do your purchasing generally.

Mr. HUBERFELD. We get turkeys from the States of Virginia, North Carolina, Arkansas, Missouri, Indiana, Minnesota, Wisconsin, and——

Mr. IRELAND. These are all shipped to New York?

Mr. HUBERFELD. That is correct.

Mr. BARZVI. Not only Government turkeys, also our turkeys that we buy for the regular market.

Mr. IRELAND. If the USDA distribution system was not available, you couldn't sell your product or could you still sell your product and distribute it?

Mr. BARZVI. Well, almost none. It would depend on what we are doing and what we priced.

Mr. IRELAND. In other words, what you are saying is that the distribution system that the taxpayers pay for at the USDA is an integral part of your business, is that correct?

In other words, that is your distribution system?

Mr. BARZVI. Well, yes, we did specialize in that and we did gear ourselves into that business. We felt this is a good business for us and——

Mr. IRELAND. I am not referring to whether it is a good business or not?

Mr. BARZVI. But we do want to be in that business and we do want to participate in the military, but this has nothing to do, we are talking about the commodity program, whether it does work or not.

Mr. IRELAND. Let me pursue that.

Mr. BARZVI. Maybe that will explain——

Mr. IRELAND. Let me pursue this. You are going beyond my question and again I would remind you that isn't the purpose here, to discuss whether the commodity program is a program that ought to exist. We are talking about who gets to participate in the commodity program and who benefits by it and if small business gets to participate. What I am saying is that it appears from what you say that the USDA distribution system is your distribution system. In other words, you have no need for additional distribution activity other than just getting it to the USDA, is that correct? That is all I need to know.

Mr. BARZVI. Well, not totally, but yes, our other distribution is there but we don't need it.

Mr. IRELAND. Yes, you don't need it because the bureaucrats are doing it for you.

Mr. BARZVI. I didn't say that. If they wouldn't buy, probably we would be looking for distributors all over.

Mr. **Ireland**. You would have to either do it yourself or find others?

Mr. **Barzvi**. Yes, we would probably get to business that way. Yes, we do. The question of what we do is different.

Mr. **Ireland**. If the USDA wasn't doing that distribution you would either do it yourself or you would have it done like it is being done now and that would involve many small businesses. It wouldn't affect your business one way or the other?

Mr. **Barzvi**. It is now, too, distributed by small distributors all over the country?

Mr. **Ireland**. Not if you analyze what the USDA is doing.

Mr. **Gellis**. I would like to explain this point here. When the USDA buys poultry, they buy it at bid price, free on board destination. Now, we mainly use direct sales or bid price of USDA using a lot of independents and truck drivers which take it to its destination, whichever USDA tells us to. So again you have your small business people involved.

Second, a lot of the warehouses that we go to are small business people. And, third, the final outfit that will distribute the products to the schools in the more advanced states will be local small distributors.

In some instances you have some States where distributors are not there and the schools themselves send trucks to get them picked up. Whichever way you look at it the product has to get to every individual school in the country. And the question of having tax moneys paying for distribution, no matter if you go for cash or a commodity program that money has to be spent to get the product to the right place.

Mr. **Ireland**. That doesn't address on whether it is efficient or not. It is very clear, and this has nothing to do with your business, that the free enterprise system can perform the distribution. There hasn't been a witness yet who was opposed to or in favor of the program who doesn't say that the distribution system is inefficient and could be better done by others.

Mr. **Gellis**. As far as poultry is concerned the distribution system used between us and the other companies is the free enterprise system. We don't have trucks and facilities to go all over the country.

Mr. **Ireland**. We are talking about the part of the distribution system that is the USDA. All you have to do is put the charts up there and see what goes on and listen to the testimony both today and as well as the other day. It simply has to be done better. You even referred to the inefficiencies in your own testimony.

Mr. **Gellis**. When we are talking about inefficiencies in our testimony, is mainly in the South where commodities have to be distributed through railcars. That has been the big problem. Especially with perishables it has been a big problem, but in any other system where I would say you have public warehousing, the free enterprise system is being used right now. And the only thing is that the middleman is cut out and that benefit is passed on to the school system in Federal tax dollars. There is no commission, there is no brokerage and markup.

Mr. **Ireland**. But every study, including the study of GAO, indicates that in that area alone we could save $300 million a year.

Let me ask you this, for the companies that sell turkeys to the USDA, where are they located?

Mr. **Barzvi**. All over. One in Philadelphia, one in—what, one in Denver, one in Pennsylvania, one in Virginia. That is turkey rolls we are talking about. Turkeys, there are many more all over the country. I am talking about turkey rolls. There is one in New York. We, too.

Mr. **Ireland**. Gentlemen, thank you.

Mr. **Barzvi**. I would like to explain one thing of what I think will happen and what is happening now from facts that we have today. Maybe that will explain a little bit better what cash will do to the program.

I think it is more important than the whole thing. Are they going to get with that cash the dollar value that they are going to pay? Is the Government going to get that dollar value or not?

Mr. **Ireland**. Eighty percent of it is doing fine.

Mr. **Barzvi**. I think that the Government should really be buying all the commodities, not only 20 percent, all their needs, nutritious, to protect the quality of the product that kids are going to get.

I have here two packages of hotdogs. This is the one that is made for the States under their contracts with the commodity that contains less than 15 percent protein, which is the highest with no water added. This is one that has 15 percent water added and only 9 percent protein and 35 percent fat. They both are called hotdogs. They both have the same letters.

When the schools run out of their commodities of that product that they are getting distributed to their schools, they now need turkey. They forget about that turkey they cannot get, it is very expensive. They forget about that one, they cannot get it, it is very expensive. They now ask how much is turkey roll and how much is hotdog. Those are the turkey rolls and the hotdogs that are sold to their schools for the same price that they are getting, the USDA turkey rolls.

This is called hotdog and this is called turkey, that is through the distributors. I had that happen in one of the States. I won't give the name of the State. They ran out of the commodities. They said, how much is hotdog. They said, 89 cents based on the quality. They said, well we can get it for 79 cents a pound. I said it is not the same quality. I said, to make it short, we ran down to 52 cents a pound. The competition, all the way from Denver, Colo., to New York, without distributing private sector. It comes all the way from Denver to New York to sell hotdogs for 52 cents a pound. And at that point there is no control in the schools what product they are getting. Still they are getting hotdogs.

Mr. **Ireland**. I think you are on the right track. The competition is what drove it down to 52 cents.

Mr. **Barzvi**. No. I am saying the school is still paying the price that the distributor did bill for. They are paying that price by getting that one low quality and paying the price that they now pay for the high quality, and the money in the middle is wasted by the distributors who are probably the ones that are asking for the cash so they can't——

Mr. **Ireland**. Each of the nine experimental districts that used cash saved from 5 to 15 percent. So that would indicate that the program, as it is in the commodity part, just isn't working well. This, over a period of time, and a variety of school districts.

I submit to you that the American public is a lot better able to decide which one of those products they want than some bureaucrat making purchases for the USDA.

Mr. BARZVI. No.

Mr. IRELAND. I would mention the matter of quality. We have heard over and over again complaints about quality. Some products that stores wouldn't even sell. We have people eating products of this kind that they would not buy as you say, in retail stores. So we are forcing in this program, in the interest of what the USDA has in mind or somebody else has in mind, people to eat something that they would not ordinarily buy.

I think we have to consider the fact that we should not have people in Government dictating what people should buy. The track record shows that quality is often not there.

The Defense Department has rejected much along this line and so have many others. So I don't think we can defend the commodity program based on quality or the interest of what people want to have.

Mr. BARZVI. I must say that you are misled by that information or the way you are representing the whole thing. If the Army is rejecting any product, it is because whoever sold the Army that product did not comply with the specs of the contract. The Government is the only one that has the power to dictate quality, which is a spec, and has the power that whoever wants to participate to participate if they want to make the same quality that the Government is buying.

The question would be: Is the Government buying the best? Well, I will tell you that the Government is buying the best, regardless if somebody comes here with a plate of corn and tells you that he found a worm in the corn that means corn that the whole Government bought throughout the country is full with worms. You have the wrong impression.

My wife bought a can of tuna in the supermarket and didn't get it from the Government, and there was a worm in it, too, and they did not recall it. If that would happen, in the Government, if the school would call the Government in Washington and say, we found worms in the corn, the Government would recall every box of that product that was produced, that they will investigate, that there is no others that are left for the next day's production. And the processor will take it back, where in the private industry they don't have to.

It is misleading if we believe that the Government is buying junk.

Mr. IRELAND. We will give you many examples of products that have had to be thrown away in the commodity program. It will be an enlightenment for you.

Mr. BARZVI. If a housewife doesn't know how to manage her money, that doesn't mean that the program is wrong or if the Government is not buying the right product. I think the Government is buying the best product that you can buy. The Government buys pork and beef with 20 percent fat, and you pay 30 percent at the supermarket and nobody knows that.

Mr. **Ireland**. We are delighted to have your opinion. If there are no other questions, thank you.

[Letter from Abe Gellis, director of government contracts, follows:]

New York Turkey Corp.,
Maspeth, N.Y., June 3, 1981.

Steven P. Lynch,
Staff Director, Committee on Small Business,
Rayburn House Office Building,
Washington, D.C.

Dear Steve: We received the official transcript of our recent testimony before your Subcommittee which we acknowledge with thanks.

We ask that a correction to line 1959 be made, insofar as Mr. Huberfeld is a Vice President of our company; I function as Director of Government Contracts.

In view of your request that we not make any corrections that would change the meaning or substance of the testimony we have elected to make no changes. Unfortunately, the transcriber made certain errors in picking up the testimony which, if changed, would indeed affect the substance of the transcript. Rather than becoming argumentative as to the spoken word we would recommend that we be permitted to reappear to further the information we placed at the disposal of the Subcommittee. As you know, there was a paucity of representation from small business; it is our opinion that small business should speak out positively in matters of this type.

We would like to comment on Chairman Ireland's assertion that our testimony, commencing with line 1961 and ending with line 2221, deviated from the intended focus of the Subcommittee. We would respectfully submit that the subcommittee exhibited a tendency to grant substantial latitude within the hearings by allowing same to become a forum for the proponents of H.R. 3077. We did not intend to show a lack of respect for the committee or its purposes; we were merely following the general theme established within the hearings held immediately prior to those of May 13.

Thank you for your kind attention, we remain,

Sincerely,

Abe Gellis,
Director of Government Contracts.

Mr. **Ireland**. Mr. Thomas Caron, director of marketing, from Marshall, Minn.

TESTIMONY OF THOMAS CARON, DIRECTOR OF MARKETING, ACCOMPANIED BY JOHN DROWN, MANAGER, FOOD SERVICE DIVISION, SCHWAN'S SALES ENTERPRISES, INC., MARSHALL, MINN.

Mr. **Caron**. I have another gentleman with me, John Drown, who is the division manager of our food service division. I don't know if I appreciate following the last testimony but, hopefully, Mr. Chairman, we can shed some light on a subject that I think has been beat pretty heavily on both sides of the coin and has added supporters.

To say that we are here with anything but a vested interest, no. We have a vested interest. I think that should be frontal, and we will tell you a little about our company so you know where we are coming from.

Schwan's Sales is a Minnesota corporation, primarily involved in the processing and distribution of food products. It was started in 1952 by a man with $100 and a dream. For the lack of time I would submit the written testimony and summarize very briefly.

Schwan's Sales Enterprises is a diversified food manufacturer and distributor. It sells food in all eight contiguous States, and one of our divisions is the food service division, which basically has a majority of sales, 90-plus percent of its sales, which go to schools.

We have Government contracts for commodities in 29 States. The division has been in existence for 6 years. It was initially staffed with 1 person and grew to the day that it has 10 sales people, obviously a production facility behind it.

When you talk in terms of small business, and I think honestly I have a different view of why this meeting was being held, and my testimony more or less goes to a different area.

To back up there a little bit, I would like to tell you a little bit about myself. I was born on a Minnesota dairy farm, and I consider that the epitome of small business. They collectively buy more small goods than all major ones put together.

We have an agriculture based economy. I went on to be a teacher in the State of Minnesota. And I would say the waste is minor compared to the waste in the title I, II, and III programs when I was in the educational system, when we had to buy whether we needed or not because we wouldn't get the money the next year. That is very scary, and maybe that should be looked at.

From there I got involved in the private sector, which is an agribased business. We established this business basically 5 to 6 years ago. A little bit about Schwan's Sales Enterprises. It is privately held. We have sales in excess of $300 million. Now you would say is that a small business.

We have 4,000 employees, but remember that under the aspect of the free enterprise system that the smallest is only relevant to who you are talking about. Our major competitors are such people as Kraft. With this segment of business the Kraft Corp., Quaker Oats Corp., Gino's, Dobbs Corp., which is part of Fairmont Foods and is now a Mexican-based corporation in Mexico, and we had H. J. Heinz which is in excess of $2.5 billion in sales at that time before they merged with Dart Industries.

To make a long story short, we believe that there are parts of the commodity program that definitely should not be killed. To give you an example, it is kind of like you have gangrene on your big toe on your left foot. You can just do nothing and eventually it will take the body or you can make a selection and decide that you are going to cut off the leg and you will probably save the body, or you can cut off the foot or cut off the toe or part of the toe. But in all cases I think everybody realizes a little good flesh goes with the bad flesh in order to make things work.

Our particular product, primarily a commodity product, is institutional pizza or school food service pizza. Realizing in order to tie this together it is not only small business and big business and Government, we are partners, not adversaries. And I would like to go on record saying that Government has absolutely no responsibility to insure the success of small business. I feel very strongly about that.

I am the endowed chairman of free enterprise at a small university. I feel very strongly that Government does not have any right to insure my success. Don't keep me from failing but do not insure my success. That is not a responsibility. In preceding testimony I think many people feel that the Government has a responsibility to insure success. Also to define larger versus small, there is a lot of talk of a family farm.

I grew up on a farm of 100 acres producing poultry, dairy cattle, et cetera. That farm that I grew up on in the 1940's and 1950's can no longer exist in today's economy. It is impossible. It is a piece of history to be written down by somebody, because the economics at the time did not allow that.

Big business is not necessarily bad. How do you define bigness? You take the average age of the Minnesota farmer is 55 years old. If you take the productive farmer, you find he is in his late 30's or early 40's, and the 55-plus farmers are farming 220 acres or so and the young guy is farming 600 to 1,000 acres. It is a maturing of the business.

If you transfer that over to the pizza business or any other business at the entry level you will find there are hundreds and thousands of producers and the abilities of that producer to make moves at the right time as the market matures there will be less and less producers in it.

When we first entered this business, the biggest single person in it was H. J. Heinz, no longer in the business. They laid off their entire sales force, closed two plants and they are gone. They did not use the normal distribution channels. They did produce commodity pizza. Contrary to that, our belief when we entered the market, and incidentally right across the river here, Doug Van Akman got us involved in the commodity program. We were naive and basically didn't understand it. We spent some time and effort understanding the commodity program. Realizing the Government was a partner, not an adversary, taking a look at what it really took.

Now in this particular case it was the combination of the removal of surplus wheat and a combination of the removal of dairy products. And during the period of time we have had extreme surplus of dairy products down to new dairy products back to extreme surplus dairy products.

We take Government surplus dairy products, namely Mozzarella cheese and manufacture under the specifications required and we have contracts with 29 States. We produce that product. We distribute it to 300 independent distributors, 65 brokers, we sell nothing direct and for all practical purposes we use the free enterprise segment wherever possible, because we feel it is the most efficient side of the coin.

We feel we are part of the free enterprise portion of it and the private sector, but we do feel strongly that the commodity program if it is simply that some law such as a business doing less than so many dollars or having less than so many employees were to be guaranteed survival, that would be a mistake.

It would be a drastic mistake because that would be contrary to the Adam Smith free enterprise philosophy that exists in America today. We believe that overall the removal of agricultural surplus and the commodity program together working correctly has many, many good sides and any attempt to alter that should be a careful one, because if you go too strong and too fast you might possibly destroy the portion of the use of this surplus commodity.

I guess I am old enough and well enough read to know that there are millions of pounds of dried milk that had to be destroyed because it wasn't put to use or we dumped it into Third World countries which we stand a chance of alienating many of our allies on a foreign policy basis, and if you see the bends of the 1950's sitting across all the farms in the Midwest.

Here we take surplus products and we give it to schools. We give many kids lunches of quality that they would not normally have. If the commodity program were wiped out tomorrow, Schwan's Sales Enterprises would not go out of business. The percent of our business involved here is less than 10 percent of our total sales, and quite honestly pizza is the most popular item served in schools today by far. And if you had cash in lieu of commodities pizza would still be served. Honestly it would cost more on a per plate basis.

I looked at your questions and I state that the Government does some things that I don't 100 percent agree with, and I don't know how to do them better; $1.455, the price of your cheese is picked out of the sky. The Government doesn't change that every day. Obviously every Friday five people get together in Green Bay, Wis., and they decide what the price of cheese is going to be for the next week for the entire United States. I don't know if that is right, either.

Mr. IRELAND. They had better devote more time to their football team. [Laughter.]

Mr. CARON. But they pick that out of the sky. What does that price really do. That price as far as we processors are concerned pins a liability on us if we can't account for every pound that is going into the distribution chain. So, if we are audited, and obviously anybody should be able to stand the scrutiny of an audit, we have to come up with the pounds and/or what happened to this product or we have to make it up with comparable product and/or price.

Now, you could say that the schools are also paying the equivalent of $1.45 a pound and maybe the market is $1.3875. And I believe that is the last market block price of Mozzarella cheese, which would be a comparable price. But the difference between those includes the handling, storage, and distribution charge.

And I have also heard testimony and read testimony, and maybe yourself, Mr. Chairman, you said something about the fact of the New York Turkey Association processing turkeys. I will use Minnesota as an example.

Minnesota is a great producer of turkeys. As a matter of fact they have a battle between that and North Carolina all the time as to who will be the biggest turkey producer. The fact is we only have 4 million people. We can't consume all the turkeys. We have to ship them to New York City and Los Angeles.

We are fourth producing in milk products. Those products have to leave Minnesota. We like to talk in terms of colloquialism, in terms of originality, we are a company with national distribution. In our little town we have a Swift turkey plant producing butterball turkeys that are sold in Miami and New York City. We have cheese manufacturing facilities that sell cheese all over the country. So, on the side of drawing a product from one area and producing it in another we in our particular business feel very strongly that we have the epitome because we get the majority of our wheat that we use for the flour from within, literally blocks of our plants. We are surrounded by elevators.

We get cheese from cheese plants in Nebraska. The majority, not all of it. I guess what I am really saying is in some segments the system is working. When you look at it, don't take too much of the good with the bad.

Any questions?

Mr. IRELAND. You will not get any argument from me on philosophy. I think you are on target.

I will again reiterate that the idea is to examine the access of small business, and yours is obviously a very favorable story along that line.

As we look into access I think we have to bear in mind two things. No. 1, we are not here just to protect people to be protecting them. No. 2, at the same time if there is inefficiency in the way the USDA is doing their job and their job adversely affects small business, those things certainly should be changed.

I couldn't agree with you more that we should be in the business, obviously, of guaranteeing equal opportunity; in other words, your opportunity to compete with Mr. Heinz, et cetera, but we darn sure shouldn't be in the business of guaranteeing equal success. We shouldn't be there. If we do nothing else, we should remember that we have got to protect the right to fail. It is just as important as the right to succeed, and I would totally agree with you on the subject.

The thing that does concern me—and perhaps you could elaborate on it in a way—is not a matter of insuring success for any small business. It is just that his own Government ought to get out of his way. I would point out an example that we had in these hearings concerning powdered milk. There was a gentleman in here from the National Cheese Corp. He came up with a way to utilize the very dried milk you are talking about and got in a profitable position and the regulations were changed on him. He went out of business.

Mr. CARON. I would like to address one thing. John and I, when we first met with Mattie, he was in the process of taking low temperature sweet dried milk and converting it to Mozzarella cheese. Obviously in the free enterprise sector we did a little marketing study and it is always better to be first than second.

If you bring Jim Lobrino in here of Lobrino Cheese you can talk about the same thing. The fact of the matter was that we went from no cheese surplus at the time that Mattie entered that market where you couldn't get a pound of cheese and you know anybody can go in and buy 10 cents a pound to an extreme cheese surplus. Part of that you can say the Government parity support was too strong, which drove farmers to have better broadening of stock, et cetera, et cetera.

When that occurred it became obvious that a brilliant move by the Government, a stroke on their back, why take surplus milk, make it into dried milk, give it to the managers and Jim Lobrinos to turn it into Mozzarella cheese when we could take liquid fluid milk and make that into Mozzarella cheese and eliminate one process. And that was done at that time. Then you had a surplus of

Mozzarella cheese, and it went to dried milk back to Cheddar. You have got to be prepared to move with these things.

But I would say in answer to Matachara, who I have respect for, he was not prepared to move at that time. And if he had been dealing with the Safeway Corp., and they decided they wanted to go to something else he has to have that same ability to move. That is almost the case I am talking about.

I don't think the Government owes these people a reason to exist. Someone decided you didn't have to convert the product.

Mr. IRELAND. I would totally agree with you that the key is in the changing of the regulation and then there is paperwork and everything else.

Let me ask you this in the other part of the program, the 80 percent of the program, is your product sold to schools in the 80-percent program?

Mr. CARON. Eighty percent is strictly private sector. Let's divide our business first to 90 percent; 90/10 is private sector, I'll yield to John, is a percentage.

Mr. DROWN. Aren't you asking the 80 percent of school purchases versus the 20 percent that the Government purchases?

Mr. IRELAND. No.

Mr. DROWN. Are you talking about our business?

Mr. IRELAND. Let me put it this way. If there wasn't a commodity program you would still be, I take it, selling this product to schools throughout the country?

Mr. DROWN. Yes, we would.

Mr. IRELAND. And you probably do some on a direct basis to schools as well, am I not correct?

Mr. DROWN. We sell to the schools through free enterprise systems without the commodity programs. We process it.

Mr. CARON. The example would be Kansas, of course, which is where our plant is.

Mr. DROWN. I would like to submit this, Mr. Chairman, the very day after the attempt on President Reagan's life, the first bill that was signed was the dairy support program, which means we are going to have dairy commodities that are going to be purchased whether they be Cheddar cheese or Mozzarella or milk. That being the case, if the Government is going to support the program, why not have these commodities available to our youth, to our students. That is what we are saying. There are good points here. Coming from the Executive Office itself for the signing of that bill means that it is going to be around. I would have to assume that, anyway. Why not have that bill for our students under these programs.

Mr. IRELAND. I think the main point here that leads from that to the involvement of small business is like so many other things in our society—we don't come right out and say what we are doing. Now, you have said, and one or two of the other witnesses, but very few have said, hey, let's not lose sight of the fact that we are buying up a surplus.

Now that is a decision that really has nothing to do with the school lunch program. That is keeping producers in business. Some of those decisions are basically good, some of them are bad.

The dairy subsidy is a classic example. There was not a great hue and cry when it was reduced. We were just building up and building up and it was working to a crescendo. So that is a decision that has nothing to do with the small businessman as far as his involvement with the commodity program.

What we are talking about here, if we could, is what do you do if you have got a surplus? If you make a policy decision that you are going to buy surpluses to keep producers in business, when you get it then what are you going to do with it. Are you going to bury it in a hole, or serve it for lunch somewhere? What are you going to do with it? And if you are going to do it, are you going to do it efficiently?

This has nothing to do with what your company is doing, it is how USDA has done it and a lot of it is distribution. A lot of it is getting the right thing to the right place at the right time. Year after year after year the testimony comes to various committees of Congress that it is being done inefficiently.

Now, we must own up to the fact and address the problem.

Now, if it is a small businessman or a large businessman who can get that distribution done better than the bureaucrat down the street on Independence Avenue, then we ought to be doing it that way. I respect you very highly for saying that you began with certain advice. I think we need to know that. We need to make sound decisions facing up to the fact of what we are dealing with.

Mr. CARON. Well, I have been here under the House Education and Labor Committee. Quite honestly, I went back and told my owner and president. I said I just can't believe what I saw. And he came up with a statement I think is profound and worthy of the record, and that is that politicians come and go but bureaucrats stay.

Mr. IRELAND. Indeed, you said the magic words.

Mr. CARON. I saw so many bureaucrats testifying. But I would like to follow the chain of 100 pounds of milk, which produces about 10 pounds of cheese. Under our system I don't think it gets the pat on the back that it should.

Let's say that 100 pounds of milk, and the majority of the product that is sold through John's division is produced at the current time someplace in Nebraska, that is taken to one of two small plants.

Would you give the name of those plants?

Mr. DROWN. Urbana Cheese and Oxford Valley, both out of Nebraska.

Mr. CARON. They are both small companies in terms of Kraft Industries or Borden. So you have an independent farmer and under the CCC program those two companies have the right to sell that product to the private sector or sell it to the Government at a predetermined price. They have decided to sell it to the Government and this is all pretty much beforehand with the bid process, and to the USDA, et cetera, and they bid so much a pound that they are going to manufacture this into cheese for us.

These facilities are about 150 to 200 miles from our production facility, and we have had the ability to work out with them so we don't have all that cheese sitting there at one time. It is not in public storage. It is not making trips back and forth across the country. There are times, obviously, you can't tell a cow only to produce 50 pounds of milk. She might go from 30 to 60. But this

100 pounds becomes 10 pounds of cheese, makes its way to Salina, Kans., and becomes institutional pizza. The majority of time blocks from our plant but never more than miles. To put on the pizza product, and we put it into the distribution channel.

The distribution, as I say, takes 360 distributors, 65 brokers who are the epitome of small business people. It might be from the New York Stock Exchange down to Earl Draper in Fairmont, Minn., who has 10 employees.

To make a long story short is I don't know how you can improve on that system if you are going to use the premise of the removal of agricultural surplus and use the school lunch program. We do not go through the Government sorting a product after it is finished. The majority of time it does not store the product before they use it. With cheese, sometimes it does. With wheat that is harvested only once a year it does. This is a fact of life. These are the major points that we want to get across.

We would feel that there is extreme competition in the marketplace. We are able to add on under our situation the meat and tomato sauce and our labor, overhead, profit margins of sales, administration costs, and we have go to out and meet competition. The competition is from other pizza manufacturers and from other products from turkey to what have you. There is competition.

Mr. IRELAND. There is no truth to the fact that the reason Mr. Heinz is in the Senate is because you put him out of the pizza business?

Mr. CARON. The proof of the fact is that his management team made some lousy decisions.

Mr. IRELAND. Thank you for your testimony. You made some excellent contributions to our record.

[Mr. Caron's prepared statement follows:]

PREPARED STATEMENT OF THOMAS CARON, DIRECTOR OF MARKETING, SCHWAN'S SALES ENTERPRISES, MARSHALL, MINN.

Honorable Representatives, I asked to appear before this Committee because I feel too often that people in charge of establishing the policies and the laws of our country hear from the public sector rather than the private sector. I feel it is important that you know who is testifying so the following is a brief resume of myself.

My name is Thomas Caron and I am currently Director of Marketing of Schwan's Sales Enterprises, Inc., a Minnesota based corporation primarily involved in the processing and distribution of food products. I am 38 years old, was born on a Minnesota dairy farm, educated in public schools and the Minnesota State College system. I taught school in the State of Wisconsin four years and did graduate work in the Wisconsin State University system.

I have been a member of the AFL-CIO and am currently on the Council for the Chair of Free Enterprise at Southwest State University. I'm on the Board of Directors of the small closely held firm and on an Advisory Committee to the Hotel/Restaurant Institute.

In an attempt to answer the questions I have outlined, I feel it is important to state a couple of premises; one of which is Government does not have an obligation for business to succeed.

One of the maxims of the Adam Smith philosophy would be that everyone has the right to fail and I personally believe that that is also the right that exists under the free enterprise system as it has developed in the United States.

From a philosophic standpoint my testimony will lean more toward the Frederick/Jackson/Turner 1893 thesis than the germ theory of the Anglo Saxon Tutonic Knights of Bavaria. Therefore, after reading much of the preceding testimony, and I do compliment this Committee for being prolific readers, I would state it appears as if many people have testified that the Government has interfered blatantly, waste-fully and has not allowed certain enterprises to succeed. I find that difficult if not impossible to believe.

If the Government is looked at as a partner rather than an adversary and if small business exists, the fact that it is doing business with the biggest single consumer in America and has reasonable understanding of the workings of this large consumer, then it is no different doing business with the Government than it is with another portion of the private sector.

The man who I work for started in 1952 with $100 and a dream. By 1981 he has in excess of 4,000 employees and markets his product in every state in the Union. A major percentage of our business, less than 10%, is done with various Government agencies, be they local, state, or federal.

The problem as it has been addressed and as you have outlined I believe can be best approached with a statement similar to: If you have gangrene on your big toe on your left foot and you do nothing with it, eventually it will take the body. Or, you could cut off the leg and save the body. Maybe you could cut off the foot and save the body, maybe you could cut off the toe and save the body; or maybe you could cut off part of the toe and save the body. The point I am trying to make is that whenever you operate you are attempting to change something, good flesh has to go with the bad.

But, Gentlemen, do not cut off the leg to save the body. Many parts of the Commodity program are good, excellent, outstanding and more than likely cannot be run in a more efficient manner. It is also obvious that parts are grossly inefficient and as William Shakespeare said 400 to 500 years ago, the good that men do is often interred in the earth and the evil will reign on after them.

Obviously, I am here with a vested interest. I consider the Commodity program to be one of the good programs and that is that it serves more than one means.

If we start with the premise that since the 1940's we have had some form of agriculture stabilization (the removal of farm surplus) and I doubt you would find too many people with an ounce of intelligence that say this has been a totally bad program, since if you would remove the increased productivity of the American farmer over the last 20 to 30 years from the increased productivity of the American economy I wonder how much you would have left.

With that premise in mind, today we will continue to remove the agricultural surplus products and since the American farmer does not have the ability to forecast rain, heat or basic weather conditions, excess surplus will always exist in this segment of the American economy.

If we view big to be bad then the process of growth of the American farmer is bad because no longer can the American farmer exist on 80 acres of land in the majority of the United States. Once we have accepted removal of agricultural surplus, then we enter into what is to be done with it.

Is the Government to store this, dump it into landfills, export to the Third World or is this product to be used in a logical, socially sound and economical way? The example that I will use is school lunch pizza.

It is hypothetically possible that this product can be made from surplus cheese, surplus tomato paste, surplus wheat and surplus meat. Therefore, the Government is using the private sector's ability to produce, package and distribute this product. Examples of this would be on our pizza product where the majority of the wheat currently comes from within two to three miles of our pizza plant in Salina, Kansas. The surplus cheese comes from the closest possible source of cheese the majority of the time. We distribute the product through the private sector all the way to the end user.

Gentlemen, in answer to your five points, it is my opinion that competition does exist for the various commodities that the Government purchases; that there is extreme competition in the processing of these commodities; that the cost of USDA purchased and delivered commodities compared to local purchases are never going to be exact because the USDA cost fluctuates on a day to day market but they are within reason.

The cost of warehousing, storage, processing and distribution of commodities is no more or less than that of noncommodities. Simply because many of these commodities are of seasonal nature and therefore they have to be stored when they are harvested or taken from the farm.

In reference to Question "E", the examples of waste and/or abuse in the present system, I would state that you have possibly been flooded with examples of wastes and abuses, but exceptions are easy to point out and rules just go on and on and on.

Mr. IRELAND. Miss Eleanor Josiatis is from Focus:HOPE.

TESTIMONY OF ELEANOR JOSIATIS, FOCUS:HOPE

Ms. JOSIATIS. I congratulate you gentlemen on your endurance. I will take one more second of your time for show and tell. I think it is important, or I wouldn't take your time here.

Congressman Ireland, and gentlemen, I appreciate the opportunity to testify before you this morning as you continue to discuss the commodity procurement policies in the Department of Agriculture. And I would like to share with you the benefits that some of the other programs receive from the Department's purchasing policies, and that is why I am here today. Most notably, sir, the commodity supplemental feeding program.

Now the commodity supplemental feeding program is for pregnant women, children, and preschoolers up to the age of 6, and we are supplied commodities through the Department of Agriculture.

Although I have a concern for the problems facing small businessmen, it is my concern for hungry Americans that I am here today. I am Eleanor Josiatis, the associate director of Focus:HOPE, which is a civil and human rights organization in Detroit, and a member of the National Advisory Council on Maternal, Infant and Fetal Nutrition. I am also representing commodity supplemental feeding programs operating in Washington, D.C., North Carolina, Kentucky, Tennessee, Colorado, Nebraska, Louisiana, South Dakota, Michigan, Minnesota, and California.

Focus:HOPE has, for 12 years, managed the Nation's largest feeding program for malnourished mothers, babies, and preschoolers, using Department of Agriculture commodity foods, serving 38,000 participants a month.

Our goal is to stop the senseless loss of IQ and negative behavior caused by hunger. There is conclusive scientific documentation to prove that an infant deprived of nutrition will never develop to full mental capacity. And that damage is irreparable. It is with this concern that I testify. Hunger is a reality in our country, and while we have a national commitment to end hunger, we oftentimes find ourselves in financial binds that limit our ability to serve all those in need.

In America today there is an abundance of food sufficient to feed all of our hungry poor. What is lacking in America, today, is sufficient dollars to pay the high cost of that food. To a large extent, the high cost of food is directly related to middlemen: processors, packagers, advertisers, speculators, and self-interest groups. While individual entrepreneurship is the American way, the need to feed hungry people is a problem in search of a solution beyond self-interest.

The commodity supplemental food program brings together the vast resources of the Department of Agriculture, the farmer, our abundant food supply, and the Nation's poor, without huge markup.

With the commodity supplemental food program, the U.S. Department of Agriculture enters the market at harvest time and buys food in large quantities to be shipped throughout the year. This process is a direct help to the farmer, who oftentimes finds the market overburdened at harvest and must sell far below the cost of production, or destroys the product in order to keep the price from tumbling.

Point in fact is the attached article, dated May 7, 1981, from the New York Times describing the dumping of oranges in California. Also attached are two articles describing the value of the commodity supplemental food program in Detroit. The first, written by William Serrin, of the New York Times, is dated April 15, 1981. The second, written by Vernon Jarrett of the Chicago Tribune appeared April 27 in the Detroit Free Press. Both writers are nationally syndicated, and the articles appeared in papers across the country.

Let me give you an example of the purchasing power of the Department of Agriculture. These items before you were purchased in Detroit yesterday. The following table shows the retail price in a chain store, large independent store, and small independent store, the USDA price and the cost savings to the taxpayers.

I would like to submit the entire chart here for the record, but just for a couple of points here. This grapefruit juice, which is sweetened, is exactly the same thing as purchased by the Department of Agriculture. It was $1.49 and the Department of Agriculture delivered it to our back door for 66 cents. If you look at the infant fortified formula, it is similar, and it was $1.21 and it was delivered to our back door for 39 cents. That is a savings of 62 cents.

And the green beans, which are exactly the same product, purchased at 61 cents in an independent store and 25 cents delivered to and purchased by the Department of Agriculture.

Mr. IRELAND. Your figures are what the USDA paid for that or what you paid the USDA for it?

Ms. JOSIATIS. What USDA purchased it on the open market and delivered it to our back door for.

Mr. IRELAND. Purchased and delivered to you, and that was what you paid the Department of Agriculture?

Ms. JOSIATIS. No. We don't pay the Department of Agriculture.

Mr. IRELAND. I mean they delivered it and they said that was their cost?

Ms. JOSIATIS. Yes, that was the cost by the Department of Agriculture. I think dramatically is the infant fortified formula. USDA supplies this formula to thousands and thousands of babies across the country and pays 39 cents a can for it. But if that same product, when you buy it in the supermarket you are going to pay $1.21 if you live in the city of Detroit where there are no chain stores.

So it has been our experience that food delivered nationally by the Department of Agriculture is going to be 50 percent cheaper than what you are going to find in the retail market. It is that fear, Mr. Chairman, of those who operate commodity supplemental food programs that any change in the purchasing process will weaken the buying power of the Department of Agriculture and with a result that fewer hungry Americans will be fed.

I fully realize that you gentlemen certainly hear about many, many feeding programs. And the commodity supplemental feeding program may be a new one for you, so I submit for you a videotape describing the commodity program as it works here and across the country for your information.

It is my understanding that currently 80 percent of the food items for the school lunch program are already purchased locally. It is also my understanding that USDA is preparing a demonstration project for 90 school districts across the Nation. Thirty districts will receive commodity letters of credit, 30 districts will serve as control sites, operating under the existing commodity program. An evaluation of the project will be provided to the House Committee on Education and Labor, and the Senate Committee on Agriculture, Nutrition, and Forestry for review. So I would recommend before any additional change occurs, it would seem wise to wait for the results of this pilot demonstration, which is costing the taxpayer $2 million.

The bottom line is not the lack of competition for bids awarded by the Department of Agriculture, or whether or not small business is allowed to participate in the process, but whether we will fulfill our commitment, as a Nation, to feed hungry people. I thank you for this opportunity.

Mr. **IRELAND**. You have been kind enough to direct your comments to a different program, and it is something we certainly should be paying attention to. I realize much of what you do is a voluntary operation, isn't it?

Ms. **JOSIATIS**. Yes.

Mr. **IRELAND**. Some of the real costs after purchase by the USDA, you don't necessarily have. These costs come as a result of years of storage of commodities. This cost adds to the taxpayers' burden because of the inefficiency of the USDA in delivering it. That is one source of concern that applies to the commodity program.

Ms. **JOSIATIS**. Congressman, we have three warehouses, and we have to store the feed and our food is delivered on railroad cars and we have to store the food in warehouses. But it has certainly been our experience that in the last years the Department of Agriculture has done a superb job of taking our orders and sending what we need and when we ask for it.

Mr. **IRELAND**. That is the very thing that many school districts complain about. They are not getting that kind of operation that you ask for. In many cases they will contract to buy a commodity. They have no idea they are going to get it from the USDA. Just about the time a small business is about to deliver it to them, in comes the USDA and gives the same thing to them.

Ms. **JOSIATIS**. That certainly has not been our experience. It is operating successfully in 11 other States. And I would just beg you to check into it as you're doing even further because our experience is that agriculture has bent over backward to try to solve the problem and establish rapport so we can sit down and talk.

Point in fact, I was here last week. We had a meeting with all of the Department of Agriculture procurement people and infant formula folks to see how we could do it better so that rapport has been established. And I would certainly congratulate the Department of Agriculture from my point of view for some of the efforts that have been made.

Mr. **IRELAND**. Well, I certainly thank you for your testimony and the spirit in which you brought it to us.

Ms. **JOSIATIS**. Thank you, sir, and I do congratulate you for your endurance.

Mr. LYNCH. The main thrust of our hearing is to try to include more small businesses in the commodity program. Basically you do not have a problem with our goal. In other words, if we can find small companies for USDA and include them in the program and they can provide such items as the ones you use at the same price or maybe even cheaper, then that would meet our goal and meet your goal as well.

Ms. JOSIATIS. Yes. Because we have one pot of money that we are dealing with. You want the same thing that I want. I want to feed as many people with as few dollars as we can. It is my understanding that Congress has instructed Agriculture to put out the bid process so that it is fair for everybody. So I have no problem with that as long as the cost is competitive, and I don't want to see the Department of Agriculture lose that buying power because I know that that means fewer people fed. So that is why I am here.

Mr. LYNCH. Thank you very much.

Mr. IRELAND. Thank you.

Is there anybody in the audience who has a question or comment?

[No response.]

[Miscellaneous material submitted for the record follows:]

WESTERN STATES MEAT PACKERS ASSOCIATION,
San Francisco, Calif., April 30, 1981.

Hon. ANDY IRELAND,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR MR. IRELAND: We noted with interest the recent hearings your Subcommittee on Special Small Business Problems held on HR-3077 introduced by Reps. William F. Goodling and William D. Ford.

By this letter this Association, on behalf of its members, wishes to be placed on record as supporting HR-3077.

The Western States Meat Packers Association's Board of Directors approved the following resolution during its meeting in July 1980:

"WSMPA favors legislation that would allow the various states, by their choice, to be entitled to cash or vouchers in lieu of commodities for use in maintaining school lunch programs."

We sincerely hope HR-3077 is approved during this session of Congress.

Sincerely,

C. A. SANTARE,
Executive Vice President.

SCHOOL BOARD OF MANATEE COUNTY,
Bradenton, Fla., May 5, 1981.

Hon. ANDY IRELAND,
Longworth Office Building,
Washington, D.C.

DEAR REPRESENTATIVE IRELAND: In response to your letter of April 24, 1981, (which I received on May 4, 1981), there are several points concerning the USDA Donated Food Program that appears to be erroneous in regards to the Florida programs operation.

On page two (2) of your release on the School Lunch Program Hearings, some alleged examples of donated commodity processing are cited indicating in each example the basic food being sent to the district warehouse, then being shipped back to the processor and shipped back again to the District. In my ten (10) years experience with the School Lunch program in Florida, this is an exception and not the rule. The Food Distribution Program office in Jacksonville, directed by Mr. James Kreinest, usually contacts each district, informing them of that district's allocation of products, such as turkeys, turkey rolls, chicken, etc., that have possibilities of being processed further. The food service district directors are given the opportunity to decide at that point if the product is to be reprocessed and what proportion of their allocation is to be involved. Carloads are combined where smaller sized districts are concerned for shipment to approved processors. It is very rare that the products are sent to us first, necessitating return shipment to the processors.

On page three (3) alleged USDA procurement practices were cited:

(1) The ground beef and ground pork we receive as commodities do come in 55 lb. boxes but the products are in 4 or 5 blocks inside of the boxes. Therefore, there is not much difficulty thawing out the necessary quantity. A ten to thirteen pound of ground beef, when cooked, provides 60 to 75 two (2) oz. servings which would rarely be too much to be thawed for one use.

(2) The 1.3 oz. boxes of raisins have only been received in that form once in the ten (10) years I have been in school food service in Florida and we were given an opportunity to refuse this shipment if we did not feel we could use it in our programs. Most of our raisins come in 30 lb. boxes which are very adaptable to our quantity usage.

(3) On your example of opening No. 10 cans, you cited a "director would have to open hundreds of No. 10 cans to serve one meal." This was a gross exaggeration. Directors usually do not open cans. This is done by the employees in the individual schools. Also, for 1,000 meals to be served in one location, no more than 20 cans of the average fruit or vegetable would be required and it would be unusual that all five (5) menu items would come out of a can in one day's menu. The No. 10 can is also a standard size quantity container.

I could refute several more of your allegations but I am sure you can see my point from these three examples.

As to the indications that we could purchase items for less than USDA supplies them to us, that is not necessarily true. The USDA gives us a value to use on our accounting procedures on each item we receive. Below is a comparison of these values with our current purchase prices on items we usually purchase in volume since we do have a centralized warehousing system on which we save 5–10 percent by volume buying and drop shipments.

Item	USDA value	Purchase price
Salad oil, 5 gal. can	$18.30	$18.05
Applesauce, No. 10 can	1.66	1.98
Beans in tomato sauce (No. 10 can)	1.35	1.49
Flour, all purpose, per lb	[1].13	[2].20
Peaches, No. 10 can	2.38	2.91
Pears, No. 10 can	2.42	3.23
Pineapple tidbits (No. 10 can)	2.40	3.69

[1] 50-lb. bag.
[2] 25-lb. bag.

As you can see, in most cases, our purchase price, even with the volume savings, are more than the USDA donated food value.

The donated commodities from USDA only comprise 20 percent of our total food dollars, $480,000 this year compared to $1,840,000 in purchased food items. Purchased products are bought on formal bids or written quotations and our local businesses do bid and receive this business.

It may be that the Florida Distribution office does an outstanding job in the handling of our commodities but it would not be fair for Florida to have to suffer for the inefficiencies of other states. We are extremely interested in maintaining the commodity program in the form of food and not cash. Cash is too liable to be subjected to budget cuts such as is being proposed now.

Due to the proposed budget cuts, our district is facing the possibility of increasing our meal prices 40¢–50¢ per meal and the resultant decrease in participation because we price ourselves out of business. Decreased participation means layoffs in personnel, affecting the local job market, and decreased purchase of food and non-food items from our local vendors.

Please consider this information in your committee's deliberations. Hopefully, the information is not too late but I have only today received your information.

The Child Nutrition programs need your support in the commodity food question and the budget involvement. Please vote to support the Jones Amendment when the voting occurs in the House sessions.

Thank you for your response to my letter.

Sincerely,

(Mrs.) Janellen O. Music,
Director, Food Service, School Board of Manatee County.

Giles Enteprises, Inc.,
Montgomery, Ala., May 7, 1981.

Representative Andy Ireland,
Committee on Small Business, U.S. House of Representatives, Room B-363, Rayburn Building, Washington, D.C.

Dear Representative Ireland: Giles Enterprises, Incorporated of Montgomery, Alabama, is a commodity processor of bread bases, concentrates and cake mixes for the child nutrition program. We began processing in August of 1980. Within five months we produced over one-half million pounds of finished product for representative school systems of the 10 states with whom we have active contracts. This amount was very small in comparison to what potential there is in employing "engineered foods". Our products are all natural with no preservatives which is a positive point for the child who is the end-consumer.

The impact of this program on our plant was significant in that it created several more jobs for Alabamians, increased the purchase of raw materials which were not U.S.D.A. supplied, generated cash flow back into this community and generated sales from our major suppliers in other states.

One major problem we faced with the schools utilizing these processed items was lack of education. Many school lunch personnel still think "scratch" is better. The health care and restaurant industries addressed this problem many years ago and included on their menus "engineered" foods and did away with "scratch" because the labor excesses were more costly than the increased portion cost of the items produces. The child nutrition program does not seem to want to address labor as a critical point of management. Many of the major systems who have qualified dietitians or food service management who know how to staff a department have confronted this problem. The smaller school systems, however, do not have the expertise and are turning their backs to this option. Instead, they trim the menu to a close margin, accept over-abundance of commodities and pray that the kids will eat it.

I view it as this; if the Food and Nutrition Service of United States Department of Agriculture would lend direction to effectiveness in labor management, then automatically the demand for processed items would go up, thus promoting businesses in supplying their needs; yielding total, however, a better bottom line than "scratch" has to offer.

The commodity processing concept is an effective way that United States Department of Agriculture and private enterprise can work together. We still have mechanics and semantics to work out, but the concept is very solid.

I appreciate the opportunity to submit our views on this topic to your committee via this communication.

Sincerely,

Caroline Giles Perry,
M.S., R.D., Quality Control.

Apricot Producers of California,
May 8, 1981.

Hon. Andy Ireland,
Chairman, House Subcommittee on Export Opportunities and Special Small Business Problems, Committee on Small Business, U.S. House of Representatives, Washington, D.C.

Dear Congressman Ireland: We regret that it was not possible for a member of our staff to be in Washington for your scheduled hearings on the role of small business in the commodity procurement process. As a small business ourselves (3 employees) our budget could not withstand the journey. However, we have a vital interest in the commodity procurement program and wish the following to be entered in the hearing record.

Our Association represents apricot growers (250 members), who sell their product for canning to 7 apricot processors, all located in California. Each year, our industry provides the commodity feeding programs with an economical supply of canned apricots at prices that do not include brokerage or middleman add-ons.

The current commodity procurement program provides the most economical means of purchasing canned fruit for use by the government. Canned fruit is a seasonal product, with a short packing season. Canners must know in advance specifications for government purchases in order to pack these specifications which are not ordinary requirements. By knowing in advance, the canners can plan their packs in the most cost efficient manner. Without the commodity purchase program, canned fruit simply would not be packed to school lunch requirements. Currently, by issuing commodity purchase announcements in large quantities during or in advance of the packing season, the government has been able to procure canned fruit "tailor-made" to school requirements at prices 5-10 percent below list prices. This advantage for the government would disappear under any proposed allowance, voucher, or cash-in-lieu program.

Because USDA asks for bids on canned fruit in carlots of 2,200 cases, access for small business to canned fruit purchases is facilitated. Just within this past year, awards have been made within the same purchase ranging from a successful bid of 6,600 cases from one processor to 227,000 cases from a large processor. Awards have even been made at the 2,200 case minimum level. I would also point out that 65 percent of apricot tonnage is canned by cooperatives, which are owned by small farmers throughout the state. Past records; reflect that cooperatives are the most active participants in USDA canned fruit purchases.

None of the testimony presented to your committee to date has reflected dissatisfaction with canned fruit purchasing practices. We are proud of the fact that each year, canned fruit ranks high in the school's desired list and quality ratings. We would like to continue to supply the government with canned apricots, but without a commodity procurement program our industry's ability to do so would be greatly if not completely curtailed.

Thank you,

Sincerely,

LESLIE A. ROSE, *Vice President—Operations.*

NATIONAL INDIAN FOOD & NUTRITION RESOURCE CENTER,
May 14, 1981.

Mr. STEVE LYNCH,
Chief Counsel, Small Business Committee, Room B-363, Rayburn House Office Building, U.S. House of Representatives, Washington, D.C.

DEAR MR. LYNCH: The Small Business Committee has been holding hearings on the U.S. Department of Agriculture's Commodity Procurement Program. Among those giving testimony were Congressmen Ford and Goodling, who have once again introduced their legislative proposal (this time H.R. 3077) to require the school nutrition programs to purchase their food needs with cash or a voucher rather than receive them as commodities through the USDA's Commodity Procurement Program. This proposal has been touted before by Goodling and Ford on behalf of the frozen food industry and, unfortunately, was adopted by Congress in limited form last year as part of the Child Nutrition Act.

This organization and Indian tribes have consistently stated their opposition to the Ford-Goodling proposal because it would have devastating effect on the USDA's Food Distribution Program on Indian Reservations. This program is providing food and nutrition to about 75,000 low-income Indian people on some 80 reservations, and it is part of the Commodity Procurement Program. But it is only a very small part, accounting for less than 5 percent of the commodity purchases of USDA for all food programs. The school programs, on the other hand, account for about 85 percent of all purchases. If the school programs were put on a cash system, the USDA's commodity procurement program would not only shrink to a small fraction of its current size but its cost would increase as economies of scale were lost to the USDA. The Food Distribution Program on Indian Reservations would be more costly as a result and perhaps be cut back to the detriment of the nutrition and health of Indian families living in poverty.

Even as the Ford-Goodling proposal would hurt Indian people, we question whether it would help small businessmen. The school districts would probably still get the best deal from the large food producers who can undersell the small food middlemen and retailers.

We would also point out that this organization and Indian tribes have for a long time been pressing the USDA to adopt and implement a project which would help certain small food businessmen, including small Indian-owned businesses: the introduction into the food packages distributed on Indian reservations of food items that satisfy regional preferences, including traditional Native American foods, instead of having the current standard food package that is distributed nationwide. Such foods, we suggest, would be best produced by small local or regional businesses that know how to acquire and package speciality food items. The USDA would then buy these items in sufficiently large quantities to make production and distribution economical, and include them as items in the food package on a regional basis.

If Congress wants to help the small businessman operating in the food industry it should write legislation that requires USDA to buy some portion of its commodity procurements from such businesses. It should also inquire with USDA why it is lagging on the Indian proposal to introduce regionally-preferred and traditional Indian foods into the food packages.

The Ford-Goodling proposal, if adopted, would not help small businessmen, and it would have very unfortunate consequences for Indian tribes and needy Indian families.

Sincerely,

ELROY THIEL, *Acting Director, NIFNRC.*

KLEMENT'S OLD FASHIONED SAUSAGE,
May 18, 1981.

Subject: School lunch program.

Representative ANDY IRELAND,
Rayburn House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE IRELAND: I read an article recently with a great deal of interest regarding a study you are making on school lunches and where some economies can be realized.

There is another area which should be looked into, and that is the method of inspection used for the school system. Federal and State plants who supply processed meats to the school program have closely regulated systems to guarantee wholesome foods. In our case, we are under the USDA Regulatory body and we are able to ship product throughout the world because of this system. The school program calls for another agency, a Grading Inspector, who superimposes the already adequate USDA system. This is tremendously expensive for anyone supplying meats for the school program.

There is absolutely no reason to spend all this money needlessly, which is what is being done in Milwaukee. It is not known how many other cities require this same double inspection, but I would like to have your committee investigate this if you are looking for ways to save!

Very truly yours,

JOHN F. KLEMENT, *President.*

THE PAPAGO TRIBE OF ARIZONA,
Sells, Ariz., May 18, 1981.

Attention: Mr. Steve Lynch, Chief Counsel, Small Business Committee, U.S. House of Representatives, Room B-363, Rayburn House Office Building, Washington, D.C.

Hon. ANDY IRELAND,
U.S. House of Representatives,

REPRESENTATIVE IRELAND: This letter is written testimony submitted for your hearings on the United States Department of Agriculture Commodity Procurement Program on behalf of the Papago Tribe of Arizona.

We know your hearings are aimed at the U.S.D.A.'s procurement procedures and whether those procedures provide small businesses with sufficient opportunity to competitively bid against several large business concerns. In light of this, we feel our testimony is relevant and do wish to make the following points for your careful consideration:

(1) The Food Distribution Program for Needy Families is a USDA program administered solely on behalf of the American Indian and Alaska Native People. It is a program that provides necessary and substantial benefits for these people. Attached, for your information, is a brief fact sheet outlining a participant profile of Papago People receiving benefits under the Food Distribution Program. Out of all of the participants, fully 82 percent have an annual income of $5,000.00 per year or less. Fifty-nine percent (59 percent) of all program participants are either too young or too old to be considered of working age.

(2) As you can see, the Food Distribution Program meets a very essential need for the Papago People. The same is true for all American Indian and Alaska Native Peoples. An elimination of the Commodities Program for schools and institutions would be such a large reduction of the National Commodities program that continuation of Food Distribution for Needy Indian Families would be severely jeopardized and probable discontinued. The loss of this program for American Indian and Alaska Native Peoples would be disastrous and result in much suffering and great hardship.

(3) The letter of credit voucher system that is being proposed by certain of your colleagues does not guarantee better access by the small business community. As a matter of fact, we believe it will result in the same type of large corporations, utilizing the same techniques to eliminate the small business from effectively participating. The same types of economical considerations will be applicable under a letter of credit voucher system as under the existing system.

(4) The way to insure active and meaningful participation in the program is not to eliminate the existing program and replaced it with another but to legislatively and or regulatively modify the existing procurement procedure to assure small businesses have adequate access to participation.

(5) Currently, the United States Department of Agriculture is in the process of creating a Traditional Food Package for American Indian and Alaska Native Peoples. This Traditional Foods Package consists of making several slots in the overall Food Distribution package available to be filled with foods that Indian Tribes in a region have historically consumed. Because of the nature of these foods, they will have to be provided predominantly, if not completely, by small business concerns.

Therefore, the Papago Tribe of Arizona respectfully requests that you and the Small Business Committee support the general Commodity Foods Program. We further request that you support the traditional Foods Package proposed for Food Distribution Program, specifically as it is geared directly towards being supplies by small, local businesses. And finally that the question of the mechanics of the present system that prohibits small businesses be addressed and corrected and not eliminate the Commodity Foods Program for another program that would not insure adequate participation of small businesses and that would be so destructive to the health and welfare of the American Indian and Alaska Native Peoples.

Respectfully submitted,

ENOS J. THONAIW Jr., *Vice-Chairman*
(For Max Norris, Chairman, the Papago Council.)

Attachment.

The Papago Reservation is the second largest in the nation, located in southern Arizona, with north to south boundaries approximately 100 miles apart and east to west boundaries approximately 80 miles apart. In this vast area of Arizona-Sonora desert land resides 13,000 Papagos in some 64 villages. There are three trading posts on the reservation with one Post Office at Sells and two branches at Topawa and Pisinemo. Averge distance from a Papago home to a Reservation Trading Post is 30 miles one way. Average distance to an off reservation market is 50 miles, one way. Costs for food, at Reservation Trading Posts are 50 percent and more higher than at off reservation markets. The cost of gasoline, on reservation is 18 percent higher than off reservation.

Following is a profile analysis of the Papago People receiving assistance from the Food Distribution Program: There are 659 households with 1,671 people receiving benefits from the program. The median household size is 4.

Number of households receiving benefits and income per year

Less than $1,000	46
Between $1,001 and $3,000	186
Between $3,001 and $5,000	305
Between $5,001 and $8,000	92
Between $8,001 and $11,000	26
Between $11,001 and $14,000	2
Between $14,001 and over	2

Fully 82 percent of all households receiving F.D.P. benefits earn less than $5,000.00 per year.

INDIVIDUAL PARTICIPANT

	Sex	
	Male	Female
Age group:		
0 to 5	74	48
6 to 10	70	72
11 to 12	26	27
13 to 16	63	62
17 to 19	47	45
20 to 25	74	65
26 to 29	37	23
30 to 34	67	36
35 to 39	37	35
40 to 45	66	57
46 to 50	48	53
51 to 55	53	53
56 to 59	49	46
60 to 65	46	52
66 to 70	42	46
70 plus	72	80

Participants under 16 years of age:	
Male	233
Female	209
Total	442
Participants of working age (17 yrs. to 50 yrs.):	
Male	376
Female	209
Total	585
Participants over 50 yrs. of age:	
Male	262
Female	277
Total	539

Fifty-nine percent (59 percent) of all recipients are either too young or too old to be required to work. The states have testified that welfare programs in their boundaries encourage otherwise able-bodied persons from working and to "just set back and draw welfare". These factual statistics clearly indicate this not so on the Papago Reservation. Further, of the 41 percent who are of "working age", 46 percent are female. Of the 54 percent of male "working age" recipients, 80 percent or more are currently employed (poor, working) or are enrolled on a type of workfare, welfare program, the Tribal Work Experience Program (TWEP).

The above facts and figures make it quite clear that the assumed prevailing conditions of misuse of welfare programs in the rest of the country do not hold true on the Papago Indian Reservation.

State of Idaho,
Department of Education,
Boise, Idaho, June 11, 1981.

Representative Andy Ireland,
House of Representatives, Washington, D.C.

Dear Representative Ireland: One of the challenges faced by the U.S. Department of Agriculture and state distributing agencies, is to maintain an efficient commodity distribution system that will get USDA food products to the recipient agency in a satisfactory manner at the lowest possible cost.

I want people to know that we, in Idaho, have had great assistance from USDA as we work this program on a cooperative basis. What they do certainly reflects in our program, and what we do reflects back to them.

During the 1977 fiscal year, USDA granted our request and sent two people, from the State of Oregon, to assist us in evaluating our Food Distribution Program. These two men were very knowledgeable in the areas of warehousing and freight distribution. They did an extensive study and made a written report containing their recommendations.

In July 1980, I learned from Darrel Gray, Food Distribution Director, that USDA was thinking of employing a freight expert and his assistance would be offered to states to help them evaluate their commodity programs.

Since my personal philosophy is to seek ways to improve, I eagerly volunteered for Idaho to be first on their list. The evaluation included visits to freight companies, to public warehouses, and thorough review of state agency office procedures.

As a result of the studies made by the Oregon team, the evaluation by the USDA expert, and changes we made to improve the program, our distribution cost increased less than one percent. This was accomplished despite the fact that freight companies were granted an eight percent increase in freight rates in July, 1980, and warehousing costs increased six percent. One of the recommendations was for us to explore the possibility of using contract carriers. We are in the process of doing this and it should result in further savings to Idaho recipients of USDA food commodities during the next year.

The contract carrier system will permit the free enterprise system to operate more freely as freight carriers of all sizes will get an opportunity to bid for business and the commercial channels of trade will continue to be utilized.

We appreciate the cooperation of USDA. They have been very helpful and we hope other states will take advantage of their assistance.

Very truly yours,

CECIL F. OLSEN, *Supervisor, Food Services.*

Mr. IRELAND. We will adjourn until July 15.

[Whereupon, at 1:10 p.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

USDA'S COMMODITY PROCUREMENT PROCESS

WEDNESDAY, JULY 15, 1981

House of Representatives,
Subcommittee on Export Opportunities
and Special Small Business Problems,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2359-B, Rayburn House Office Building, Hon. Andy Ireland (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN IRELAND

Mr. **Ireland**. Today's hearing is the fourth in our series on the subject of the small business role in the U.S. Department of Agriculture's commodity procurement program. Tomorrow we will hold our final hearing. At this hearing, witnesses from the USDA and the Small Business Administration will appear. At the conclusion of that hearing, we will allow any witnesses who have appeared at other hearings to respond to the statements of USDA officials if they so choose. We have used this type of three-way dialog before, and it has served us well.

Today, we welcome witnesses who will present us with their views of the present ability of small business to bid on USDA commodity buys.

I would begin with Mr. Mark Singer, president, National Food Brokers Association.

TESTIMONY OF MARK M. SINGER, PRESIDENT, NATIONAL FOOD BROKERS ASSOCIATION, WASHINGTON, D.C., ACCOMPANIED BY TOM WENNING, BISON & WENNING

Mr. **Singer**. Mr. Chairman and members of the committee, my name is Mark Singer. I am president of the National Food Brokers Association, which is a national nonprofit trade association composed of over 2,470 small business firms.

As small business, food brokers are independent sales representatives performing essential sales functions and related services for a number of different manufacturers—average is 23—of food, grocery, or related products. Food brokers sell on terms set by the manufacturers they represent to all wholesale buyers: Wholesalers, supermarket firms, industrial users, and food service operations. It is estimated that our members in total employ over 60,000 sales people to carry out their important role in food distribution.

The average food broker firm has 20 employees. Approximately 25 percent of NFBA membership are firms operating as partnerships and sole proprietorships.

NFBA wishes to thank the subcommittee for the opportunity to express the views of food brokers on the U.S. Department of Agriculture's commodity distribution under the school lunch program and its effect on small business.

This is not the first time we have appeared before the Small Business Committee. We have consistently worked with this distinguished committee on small business problems of importance to food brokers, such as development and enforcement of the Robinson-Patman Act. NFBA appears here today in the same spirit of cooperation to offer constructive comments.

Food brokers are strong supporters of the national school lunch program as a means of providing nutritious food to schoolchildren. Cost effectiveness, efficiency, and productivity are more essential today than ever before in the school lunch program. In light of budget reductions for fiscal year 1982, food brokers, along with food service directors and distributors, are vigorously acting to maintain the school lunch program's viability.

To provide practical food broker experience to this subcommittee, NFBA surveyed members of its governmental affairs program. Over 200 food broker firms responded. The results provide a vivid picture of the services that local commerce provides under approximately 80 percent of the school lunch program's procurement process. The remaining 20 percent is generally provided through distribution of the USDA commodities.

The following are the services food broker firms, responding to the NFBA survey, provide to local school districts purchasing food for the school lunch program. Over 95 percent are selling food products meeting USDA standards or better; 81 percent recommend the most economical and efficient product size for purchase; 91 percent recommend new products. The NFBA survey results indicate over 60 percent of the food broker firms assist in menu planning.

Other valuable services mentioned include assisting in obtaining the best bids and times to purchase products from food manufacturers, conducting demonstrations, taste panels, and product information seminars, distributing newsletters on market conditions, and suggesting substitute items for products in short supply.

As an example of the many services brokers provide, one food broker is holding a series of six dinners for school food service directors to demonstrate economic meals and preparation. He estimates 450 persons will attend these dinners, ample testimony to the value of this kind of demonstration.

As small business, food brokers have ample experience to compare local channels of food distribution with USDA commodity distribution. Food brokers strongly believe that improvements can be made in providing food supplies for children eating school lunches.

NFBA wishes to emphasize that the recommendations of food brokers and NFBA are not for elimination of the school lunch program or the USDA commodity distribution. I am not here to criticize the handling by USDA of the commodity program; however, USDA is faced with an enormous task of administering a complex food processing and distribution system under the widespread school lunch program. Improvements, modifications, and decentralization of commodity distribution need to be seriously considered for benefit of schoolchildren, school districts, small business, and the taxpayer.

NFBA's purpose today is to illustrate how present commodity distribution affects small business, along with everyone else.

A recent example by a food broker describes how small business can be affected. His State maintains warehouses to store excess commodities. Early in 1981, chickens were to be shipped to the State's central warehouse on Tuesday for Thursday's meal. Sixty-six people in 33 vehicles went to pick up the chicken. After 3 hours of waiting, the people were told the trucks would arrive on Wednesday.

Loss estimates are 264 hours for the people involved and gas for 33 vehicles. The ultimate question by this food broker and other small business people is why does his State, ranking fourth in broiler production, have the same product shipped from out-of-State for feeding schoolchildren?

Food brokers and other local small businesses are concerned about the inefficiency in processing, packaging, storing, and delivering USDA commodities when local channels of food distributions are equally or more efficient.

Based on the example given, many small business people feel it would have been more efficient to purchase the chickens locally. This would have avoided processing of the commodity two States away, and its subsequent interstate shipment. The need for school storage facilities, personnel, and vehicles to receive and transport the commodity could have been minimized or eliminated.

In many cases, cost savings to the school lunch program would occur to the benefit of schoolchildren through local purchases by assuring timely delivery, quality, and appeal. Small business would also benefit from increased local procurement.

Other examples of inefficiency in processing, packing, storing, and delivering USDA commodities are readily given. The Birmingham News, in November 1980, reported 71 tons of U.S.-donated commodities being unfit for human consumption and frozen french fries having been stored since 1977.

Highlights of food brokers' comments include:

> The problem with the USDA commodity program, as it currently exists in relation to the school lunch program, is a matter of excesses. The schools are generally quite grateful for the foodstuffs they receive from the USDA program. However, in almost every case, the USDA commodities they have received have gone to excesses. Those things of note that I have been able to come across of late have been french fries, oils, flours, and some time ago, especially peanut butter and juices.
>
> Many of the items are items that the schools are not used to using and are particularly items that the children, themselves, on the whole, will not eat. We have found that with USDA commodities, the plate waste is tremendously higher than the school that has the opportunity to put on the plate something that the kids really want to eat.

I might interject here, Mr. Chairman, we only quoted one example of this plate waste, but it appears over and over in the surveys. Plate waste apparently is very high where the kids are forced to eat what is excess commodities, whether they like it or not. Apparently they don't eat it. It winds up in the trash can.

Another quote:

> Schools are pressed to take government commodity products whether they need them or not because they are concerned that they will not get them later. Items such as whole turkeys take up too much space, requiring over-use of this item to use it up.
>
> A school district purchased applejuice from a local vendor unknowing that USDA was making a shipment, consequently creating an over stock condition.
>
> Last year, schools were issued dehydrated potato flakes which if put in a mixer make like a glue. They are used to having dehydrated potato granules which make good mashed potatoes in a mixer. There were no instructions with these flakes, so much of these potato flakes were ruined. Schools in 1981 were given large quantities of peanut granules, peanut butter, et cetera, when because of a shortage of the crop, industry paid double to obtain it. Many distributors couldn't buy peanut butter.
>
> Heavy deliveries at the end of the school year and again at the beginning of the next school year, result in excess products being stored by schools.
>
> In the past year, several items have been awarded, but not purchased due to arrival of commodities.

Food brokers support measures that grant local school districts more flexibility in procuring food supplies from business locally. Such measures include giving local school districts the option of choice of cash in lieu of commodities, a commodity letter of credit, or commodity allowances.

The commodity allowances, as introduced in H.R. 3077 by Representatives William Ford and William Goodling, would modify and improve the commodity distribution for the benefit of local school districts and small business by permitting local purchases. Ninety-nine percent, 205 out of 208, of the food broker firms responding to the NFBA survey feel it would improve the school lunch program to give local school districts the option of cash or commodity allowances to make local purchases of food.

Resulting improvements for the school lunch program would be better planning by school districts for delivery, storage, and menu requirements. Products could be selected that are more acceptable to the schoolchildren served. For the Federal Government, there would be less waste, if there were less Government involvement in processing, packing, shipping, and storing. Local small businesses, such as food distributors and food brokers, could efficiently handle the additional volume of food ordered by school districts. The increase in business would be of benefit to local communities.

Waste, inefficiency, and duplication in the commodity distribution program continue to attract public attention and criticism. Failure to act to minimize or correct the problem will lead to greater public cynicism toward the Federal Government and the school lunch program. Giving local school districts the free choice either for cash in lieu of commodities, commodity letters of credit, commodity allowances, or some other system, to make local purchases of food for school lunch would be a positive step. Small business would benefit from the increase in business through the local channels of commerce. We recommend restricting these options solely to the purchase of food to preserve the integrity of the school lunch program.

NFBA sincerely thanks this subcommittee for the opportunity to express the views of food brokers on this important subject.

Mr. IRELAND. Thank you, Mr. Singer.

Senator Symms has arrived and with your permission we will let him testify, and then we will ask you questions following his appearance.

TESTIMONY OF HON. STEVE SYMMS, A SENATOR FROM THE STATE OF IDAHO, ACCOMPANIED BY WILLIAM D. FAY, DIRECTOR, LEGISLATIVE AFFAIRS, OFFICE OF SENATOR SYMMS

Senator SYMMS. Thank you very much, Mr. Chairman. It is good to be back here. I certainly want to commend you and the committee for your involvement in this issue, because I think it is one that is very important, and it is one that I have been interested in.

I appreciate your looking into the USDA commodity program.

Mr. Chairman, as you know, for some time I have suspected that there was some inefficiency in this program and inaccuracies in the accounting for it and have raised these concerns on numerous occasions, now on both sides of the Hill and down at the USDA.

To an extent, in our deliberations over this issue, it appears to me we have placed the cart ahead of the horse. We have been examining and I have been supporting alternatives to the commodity program—primarily the cash in lieu of commodities and commodity allowance options. We have observed the successes of the cash program in the State of Kansas and, more recently, in the eight school districts that recently participated in the USDA's pilot projects into the cash program.

I am confident that we will observe similar successes in the additional pilot projects that will be conducted by USDA later this year, which were initiated by my colleague, Jim McClure, the senior Senator from Idaho. These successes will speak for themselves.

What has concerned me for some time, however, is the accuracy of the cost figures of the commodity program, and whether or not they convey the total picture of its impact on the American taxpayers. Obviously, if the cost figures are incomplete, any comparisons we may make between the commodity program and any of its alternatives are frivolous and similarly incomplete.

My suspicion over the possibility of these omitted costs in the reporting of the commodity program led me to ask the General Accounting Office to do a study of the program's complete costs, including USDA overhead costs, costs for USDA procurement, transportation, storage, handling and further processing of donated commodities.

Further, I asked them to examine the total State and local costs of the commodity program, including personnel and overhead costs at the State levels for processing, warehousing, storage, and handling charges, and any additional processing costs experienced at the local levels.

The GAO obtained cost data from 13 States and 101 school districts within these States for the year ending June 30, 1980. The States were selected primarily on the basis of geographic dispersion to represent a mix of small, medium, and large school districts located in rural and urban areas.

The results were very interesting, and they confirmed many of my concerns and suspicions over the reported cost of the commodity program, and just what kind of bargain the taxpayers are getting for their donated commodity dollar.

Last year, during the debate on the commodity letter of credit proposal, those of us who supported this alternative alleged that the costs to USDA of the donated commodity program were at least $55 million. USDA maintained that those costs were $30 million. Now the GAO report has clarified the issue and clearly states that $55.5 million are the costs for the program, and that this number does not even include some of the transportation and handling costs which are built into the USDA purchase price for certain chicken and turkey products.

Also, during the debate on the commodity program last year, there were those of us who argued that USDA was supplying more than 20 percent of the food which schools in the national school lunch program use to prepare meals. USDA again denied that allegation. We pointed out that taking out the fluid whole milk had to mean that USDA was over 20 percent. Again, the USDA said no.

The GAO report clearly shows, however, that for the 101 school districts in the 13 States studies, the average rate of assistance for commodities was not 20 percent, but 23.4 percent, including the fluid whole milk. The GAO report also shows that for some States the rate was even higher. Of the 13 States studied, the value of commodities as a percentage of food costs exceeded 25 percent in six cases and was below 20 percent in only two cases—New Jersey and Pennsylvania.

I have suspected for some time that school districts were not clear on how much they were entitled to in the form of commodity value. The GAO report confirms this. The report shows commodity value assistance per meal which runs from a low of 10 cents per meal in Pennsylvania to a high of 19.5 cents per meal in Virginia. Also, I noted a recent report prepared by the American School Food Service Association says that only 11 percent of the school food service directors they surveyed know how much they were supposed to get in the form of donated commodities.

As I have said, the GAO study states that donated commodities represented 23.4 percent of the food costs to the 101 school districts studies in 13 States. It also says that USDA-donated commodities accounted for 27.4 percent of the preparation costs for school lunches.

Comparing this to locally purchased food, GAO found that local purchases represented 76.5 percent of food costs for the meal but only 72.5 percent of the preparation costs.

From the GAO report we learn that it costs a school district 4 percent more to prepare and serve a school lunch due to nonfood costs associated with donated commodities. If we take the results which GAO obtained for 101 school districts in 13 States and project them nationally, we find that the school lunch programs may be spending $124 million more to prepare and serve donated commodities than they would for comparable foods bought locally.

Why does this discrepancy exist? It seems reasonable to assume that the actual labor costs for commodities in terms of preparation and service of meals are not much more than those involved for locally purchased foods. If this is true, then it appears that the only logical explanation for the differential is that there are transportation, storage, handling, and processing charges attributable to commodities which are not operable for locally purchased items.

I was most interested in taking a look at the GAO report to note that in every State the percentage of costs attributable to commodities was in excess of the percentage value of the commodities as a part of the meal. For example, in Virginia we find that the value of commodities represented 30.2 percent of the total value of food in the meal, and commodities represented 41.1 percent of the nonfood costs associated with the meal.

Based on the GAO study, it appears that my State of Idaho did better than most of the other States. However, even there I found that, while commodities accounted for 22.2 percent of the value of food in a meal, they accounted for 23.6 percent of the nonfood costs associated with the meal.

Mr. Chairman, I would like to ask for the consent of the committee to include a copy of my letter to the GAO, which requests their study along with a copy of the GAO study, itself, in the hearing record.

Mr. **Ireland**. Without objection, the documents will appear in the record at the conclusion of the Senator's statement.

Senator **Symms**. Shown on page 6 of the GAO study is a summary of the GAO results indicating the total food costs for each of the States studied, as well as the percentage of those food costs allocated to USDA commodities and the local purchases. Shown alongside these figures is the total cost of nonfood items for each State per meal, together with a percentage allocation of costs between USDA commodities and locally purchased foods. Mr. Chairman, I trust you will find these comparisons as interesting as I do.

In conclusion, I would like to note that the State of Idaho wants a change in the commodity program to either a commodity letter of credit, commodity allowance, or cash. It is a change supported by our school food service officials, our State legislature, and numerous concerned Idaho citizens, including agricultural groups. It is a change I am committed to and will continue to work toward.

Again, I want to thank you for this opportunity to speak before your subcommittee.

Mr. Chairman, I would say, just to summarize the conclusion of this GAO report, what I said before we received the report: That the United States of America, through our modern technology and our economic system which based on free enterprise, has developed the best delivery system in the world. Here, more than anywhere else, we have an abundance of good and healthy food for the public to eat.

We have this marvelous distribution system in place, yet with the commodity program we are trying to have the Government run a duplicative system that just isn't efficient. I contend that it is more efficient for a school manager of a food service program to purchase the food locally through the free enterprise system that is in place. That is really what we should do, and what I would like to see us do in Congress.

I really appreciate your interest in this issue, and I hope your committee will be able to make some recommendations to change this ill-conceived program.

Mr. **Ireland**. Thank you, Senator.

Without objection, we will put the report within our record.

[A copy of Senator Symms' letter to GAO and the GAO study follow:]

ROBERT T. STAFFORD, VT., CHAIRMAN
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JOHN W. YAGO, JR., MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, D.C. 20510

March 3, 1981

The Honorable Elmer Staats
Comptroller General of the United States
General Accounting Office
441 G Street NW
Washington, D.C. 20548

Dear Comptroller General Staats:

As you may know, the Commodity Program of the USDA's School Lunch Program has been an issue of concern in Congress for some time. The State of Kansas has been exempt from the program for several years, and two years ago a cash-in-lieu of commodities pilot project employing eight school districts around the United States was conducted by USDA. The results indicated a significant savings in cost, without sacrificing nutritional values. In fact, in the Boise School District in my state of Idaho, $87,000, or 4.6¢ per meal was saved during the pilot project by USDA. The cash study found that schools bought foods that equalled or exceeded the quality of donated commodities. Furthermore, the indicated savings did not include a number of factors that I feel should have been considered in the evaluation of the projects.

Specifically, I am requesting the General Accounting Office to conduct a study of those costs, which should include the following:

1) USDA overhead costs for maintenance of the commodity program as they are within the Food and Nutrition Service, Agriculture Conservation and Stabilization Service, the Commodity Credit Corporation, and the Food Safety and Quality Service, including the various USDA regional offices.

2) Costs for USDA procurement of transportation, storage, handling and further processing of donated commodities. Some ideas on this are found in the attached letter from Congressmen Ford and Goodling to the Congressional Budget Office. In addition, we should be careful to include any repackaging and processing costs which USDA incurs, for example in taking bulk cheese and butter and having it further processed before it is donated to the National School Lunch Program and other outlets.

3) State and local costs for the commodity program should include personnel and overhead costs at the state levels for

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processing the commodities as well as warehousing, storage and handling charges, whether paid by the states or local school districts.

4) Further processing costs incurred at either the state or local level for donated commodities should also be included in the study. Examples of these would be costs for conversion of flour to cookies, bulk ground beef and pork to patties, peanut butter to cookies, non-fat dry milk to mozzarella and the like. USDA estimates that 20% of the commodities donated are further processed before they are finally used (about 280 million pounds last year).

I would appreciate your prompt attention to this request. As a Member of the Senate Budget Committee, I will be addressing the issue in our deliberation on the Fiscal Year '82 Budget early in May. Consequently, I would require the results of your study sometime in mid-to-late April.

Best regards.

Yours for a free society,

Steve Symms

Steve Symms
United States Senator

SS/wfc

BRIEFING PAPER
ON GAO REVIEW OF FEDERAL, STATE, AND LOCAL COSTS RELATING TO THE USE OF DEPARTMENT OF AGRICULTURE'S DONATION OF COMMODITIES FOR THE SCHOOL LUNCH PROGRAM

At the request of Senator Steve Symms, whose request was endorsed by Congressmen William D. Ford and Bill Goodling, we obtained Federal, State, and local cost data relating to the use of U.S. Department of Agriculture (USDA) donated commodities under the school lunch and breakfast programs (hereinafter referred to as the school lunch program).

SCOPE OF WORK

We obtained Federal cost data from USDA's Agricultural Stabilization and Conservation Service (ASCS), Food and Nutrition Service (FNS), and Food Safety and Inspection Service (FSIS). 1/ State cost data was obtained from 13 States. Local cost data was obtained from 101 school districts within these States (see page 8 for a listing of the States visited). The cost data was obtained for the school year ending June 30, 1980.

The States visited were selected primarily on the basis of geographic dispersion. The school districts visited were selected using data on average-daily-participation (ADP) of students in the school lunch program and population figures to obtain a mix of small, medium, and large school districts located in rural and urban areas.

Primarily because of time constraints (we had about 2 months to perform the work) and the need to select districts within

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1/Effective June 17, 1981, USDA reorganized and the Food Safety and Quality Service was renamed the Food Safety and Inspection Service.

reasonable proximity to each other, we did not use statistical sampling techniques to select the school districts. Again, due to time constraints we did not verify the accuracy of the cost data obtained. However, because of the large number of school districts visited in States located throughout the country and the manner in which the school districts were selected, we believe the data obtained should be a useful indicator of the costs associated with providing students with meals under the school lunch program.

At each of the locations visited, we obtained cost data associated with the commodity donation program and interviewed officials to obtain their opinions about the operation of the program.

BACKGROUND

The school lunch program, authorized by the National School Lunch Act of 1946, as amended (42 U.S.C. 1751 *et seq.*), is designed to safeguard the health and well-being of the Nation's school children and to encourage the domestic consumption of nutritious agricultural commodities and other foods.

The program is carried out with funds made available under sections 4, 6, 11, and 16 of the National School Lunch Act and with commodities donated by USDA. Donated commodities purchased by USDA under price-support (section 416 of the Agricultural Act of 1949--7 U.S.C. 1431) and surplus removal legislation (Section 32 of the Act of August 24, 1935, as amended--7 U.S.C. 612c) are funneled through State agencies, called distributing agencies. Section 6 of the National School Lunch Act (42 U.S.C. 1755) makes funds available to USDA for direct expenditures on commodities which are preferred by schools but usually not available under surplus-removal activities.

In addition to the school lunch program, USDA donates food to various eligible program outlets, including the nutrition programs for the elderly, needy family program (primarily Indian families on reservations), charitable institutions, and summer camps. However, most food donated, about 90 percent, goes to the school lunch program. During fiscal year 1980, about $842 million in food was distributed through the school lunch program and about 5 billion lunches and breakfasts were served.

FNS provides overall program administration. ASCS buys commodities under price-support authority and donates a portion of these to recipients. These commodities are generally provided through Commodity Credit Corporation (CCC) stocks. FSIS buys commodities to remove temporary market surpluses from the marketplace, and in quantities necessary to maintain programed levels of assistance to the programs.

The types of foods and amounts purchased may fluctuate in relation to marketing conditions. USDA, however, has authority to acquire certain foods for those feeding programs which, by law, must receive a minimum annual level of assistance. The amount of commodities supplied to schools is based on the number of meals served and a set rate of payment which is adjusted each fiscal year to reflect changes in a computed price index for food used in schools and institutions (as of July 1980 it was 15.5 cents).

Under the school lunch program, each State is eligible to receive annually an amount of commodities valued at the set rate of payment per lunch. When an insufficient amount of commodities is available from USDA purchases or stocks, section 6(b) of the National School Lunch Act authorizes a cash payment--called a cash-out--to make up the difference. No less than 75 percent of the mandated per lunch reimbursement must be commodities. The last time a cash-out occurred was in fiscal year 1978 ($74 million).

In addition to its entitlement, each State may receive "bonus" section 416 commodities for its school lunch program. Once a State uses all of its original entitlement of one or more of the section 416 commodities, it can order all the additional commodities it can use without waste.

Section 16 of the National School Lunch Act authorizes any State that phased out its commodity distribution facilities before June 30, 1974, to receive all cash in lieu of any commodities. Kansas is the only State qualifying for such payments.

FNS works closely with ASCS and FSIS in attempting to insure that donated commodities meet the needs of the school districts. ASCS purchases commodities such as grains and dairy products and FSIS purchases commodities such as fruits and meat products.

FNS, through its seven regional offices, allocates the commodities to State distributing agencies which, in turn, allocate the commodities to participating school districts. Allocations are based on FNS estimates, made before the start of the school year, of lunches to be served. In some States, commodities are shipped to State warehouses and subsequently distributed to school districts. In other States the commodities are picked up by the districts at railroad sidings. States that reprocess commodities may have them sent directly to the processors.

COSTS OF MEALS SERVED

The estimated average cost of serving a meal in the 101 school districts we visited, including the cost of food purchased directly by the districts, was $1.341 in school year 1979-80. The portion of this cost associated with donated commodities averaged $.343 per meal, or about 26 percent of the total. The following schedule shows the makeup of this estimated cost, as well as the average for each of the 13 States visited.

ESTIMATED COSTS PER MEAL FOR 101 DISTRICTS IN SCHOOL YEAR 1979-80 (note a)

Cost category	Average of all districts	California	Colorado	Idaho	Iowa	Missouri	Nebraska	New Jersey	New Mexico	New York	Pennsylvania	Utah	Virginia	Washington
Donated commodities:														
Commodities (note b)	$ .146	$ .169	$ .130	$ .135	$ .146	$ .171	$ .132	$ .100	$ .146	$ .161	$ .103	$ .163	$ .195	$ .144
District expenses allocated to commodities (note c)	.184	.239	.137	.117	.278	.242	.173	.101	.117	.246	.105	.194	.239	.200
State expenses allocated to commodities (note d)	.006	.013	.004	.003	.001	.010	.003	.002	.012	.002	.001	.009	.002	.011
State and district reprocessing expenses	.004	.012	.003	-0-	-0-	-0-	-0-	.011	-0-	.030	.037	-0-	.006	-0-
USDA expenses (note e)	.003	.003	.003	.003	.003	.003	.003	.003	.003	.003	.003	.003	.003	.003
Subtotal	$ .343	$ .436	$ .277	$ .258	$ .428	$ .426	$ .311	$ .217	$ .278	$ .442	$ .249	$ .369	$ .445	$ .358
Local food purchases:														
Food purchases	$ .477	$ .483	$ .499	$ .464	$ .408	$ .471	$ .461	$ .490	$ .454	$ .534	$ .646	$ .375	$ .464	$ .420
District expenses allocated to food purchases (note c)	.519	.638	.531	.397	.573	.564	.546	.440	.362	.744	.587	.448	.357	.565
State expenses allocated to food purchases (note d)	.002	-0-	-0-	-0-	.002	.002	.002	.010	-0-	.007	.008	-0-	-0-	-0-
Subtotal	$ .998	$1.121	$1.030	$ .861	$ .983	$1.037	$1.009	$ .940	$ .816	$1.285	$1.241	$ .823	$ .821	$ .985
Total	$1.341	$1.557	$1.307	$1.119	$1.411	$1.463	$1.320	$1.157	$1.094	$1.727	$1.490	$1.192	$1.266	$1.343
Total number of meals served (in thousands)	232,200	12,600	15,400	4,300	7,500	9,600	10,300	8,000	12,300	100,500	20,500	12,000	8,400	10,800

See notes on following page.

a/Eight school districts were visited in all States except New Mexico, New York, and Virginia where 10, 7, and 4 were visited, respectively.

b/The value assigned to commodities donated by USDA includes the cost of reprocessing and transportation (except for bonus commodities) as well as minor incidental costs for temporary storage, detention (for chilled and frozen commodities), demurrage charges, and stop overs.

c/Where available we used district data, however, in most cases we allocated expenses between donated commodities and locally purchased foods based on the proportionate value of the donated commodities and the purchased foods used to the total value of both.

d/State expenses were generally allocated on the basis of the proportion of the value of commodities used in the district to the total used in the State.

e/USDA expenses were allocated on a per-meal basis. The expenses included are discussed on pages 10 to 13.

The median average per meal cost for the 101 districts was $1.246. The average per meal cost ranges for each State are shown below.

State (note)	Total costs Low	Total costs High
California	$1.184	$1.694
Colorado	.953	1.848
Idaho	.883	1.243
Iowa	1.227	1.442
Missouri	1.218	1.611
Nebraska	1.104	1.466
New Jersey	1.015	1.922
New Mexico	1.045	1.370
New York	.849	1.708
Pennsylvania	.907	1.557
Utah	1.131	1.479
Virginia	.994	1.485
Washington	1.201	1.505

Note: Eight school districts were visited in all States except New Mexico, New York, and Virginia where 10, 7, and 4 were visited, respectively.

Costs to Reprocess Commodities

One of the concerns raised by Senator Symms was the costs incurred at the Federal, State, and local levels to reprocess and repackage donated commodities into other products (e.g., flour into cookies, bread, and pizza; non-fat dry milk into mozzarella cheese; and ground beef and pork into patties).

During school year 1979-80, USDA reprocessing costs for commodities donated to schools totalled about $20 million. 1/ The four major commodities reprocessed by USDA were butter, cheese, milk, and milled head rice. We did not allocate USDA's reprocessing costs to school lunches on a per meal basis since these costs are included in the value assigned to the commodities used by schools. We did not specifically identify the costs of packaging donated commodities because such costs are not accounted for separately but rather are included in the total value of the commodity purchased or reprocessed.

Of the 13 States visited, 6--California, Nebraska, New Jersey, New York, Pennsylvania, and Virginia--had contracts with firms to reprocess donated commodities. Three of these States directly incurred reprocessing costs. Those costs (net of the value of USDA commodities) were: California-$2.2 million, Nebraska-$36 thousand, and New Jersey-$742 thousand.

The method generally used by the States we visited is one where the State enters into annual contracts with firms to supply particular food items at specific unit prices (e.g., bread at $.60 per pound). When a State receives USDA donated commodities it plans to reprocess, it supplies the commodities to the contractor for use in making the particular food item. Subsequently, when a school district buys the food item from the contractor it pays the contract unit price minus the value of the USDA-donated commodity used by the firm in making the product.

1/CCC reprocesses commodities into forms more suitable for home or institutional uses (e.g., non-fat dry milk into mozzarella cheese or bulk butter into 1-pound packages).

This method of contracting used by the States helps school districts take advantage of volume purchases. The school districts can and do buy food items from the contractors regardless of whether or not they are made with donated commodities. Generally the only difference in using donated commodities is that the unit price is reduced by the value of the donated commodities used. One exception to this is when a State chooses to have USDA ship the commodity to its warehouses rather than to the contractor directly. In such cases, the State would incur costs to store and transport the commodity.

Some of the districts we visited had entered into special contracts to reprocess donated commodities. Because each contract varied, it would require a special study of each to determine whether additional costs were incurred to reprocess the commodities. Due to time constraints we did not make these determinations.

USDA Expenses

The total estimated USDA transportation, storage and handling, and overhead costs associated with acquiring and supplying commodities to schools was $55.5 million in school year 1979-80. To estimate these costs we developed ASCS/CCC costs for school year 1979-80 and used fiscal year 1980 data for FNS and FSIS, as data for the school year were not available. USDA officials said that the cost data for the two periods would not vary significantly. The makeup of the estimated costs is shown on the following page.

Agency	Total	Estimated Program Costs Transportation (note a)	Storage and handling (note b)	Overhead (note c)
	----------------in millions----------------			
ASCS	$14.1	$ 7.7	$4.4	$2.0
FSIS	34.8	33.7	0.1	1.0
FNS	6.6	4.0	0.8	1.8
Total	$55.5	$45.4	$5.3	$4.8

a/Does not include certain transportation costs for commodities purchased by USDA on a free-on-board (FOB) destination basis as these costs are included in the purchase price of the commodity and not shown separately.

b/Estimate based on average time USDA stored commodities before donating them to schools.

c/Includes cost of personnel, depreciation, rent, and general administration.

Before allocating the above USDA costs to the average cost of meals served in the 101 school districts, we deleted transportation costs (except those related to bonus commodities) because they are included in the value of USDA donated commodities used by the schools. The net amount allocated was $12.8 million.

Section 7 of the Child Nutrition Act of 1966, as amended, authorizes payments to States for use in meeting administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the school lunch and other assistance programs. We estimated that about about $137 thousand was expended in administering this program in fiscal year 1980. An estimated $31.4 million was provided to States to administer the school lunch program; however, only a portion of these funds ($2.4 million) are attributable to food distribution--each State can receive a maximum of $30,000 for this purpose.

USDA costs allocated to the cost of meals totalled about $15.3 million. This was derived by adding the $12.8 million for transportation, storage, and overhead; and $2.5 million for administration of the State administrative expense fund program and dividing by the number of equivalent lunches 1/ served in fiscal year 1980. As shown on page 6, this amounted to an average of 3/10 of a cent per meal served in school year 1979-80.

Commodities donated under section 416 of the Agricultural Act of 1949 are acquired under USDA's price-support programs. Under the price-support programs, CCC has to purchase certain commodities when the market prices of these commodities fall below the target prices established by law. Section 416 authorizes CCC to pay the cost of processing commodities into a form more suitable for home or institutional use, plus the cost of packaging, transporting, handling, and other charges accruing up to the time of their delivery to the designated State or other recipient agency.

Because CCC is required to purchase commodities to fulfill the objectives of the price-support programs, it could be argued that the storage and handling costs CCC incurs in acquiring commodities which are not directly associated with the school lunch program (an estimated $4.2 million in school year 1979-80)

1/For purposes of this study we considered the costs of three breakfasts equivalent to the cost of one lunch. The estimated equivalent lunches served was 4.6 billion in fiscal year 1980.

should not be included in determining the average cost of a school lunch. On a per-meal basis, however, such costs are rather insignificant (about one-tenth of a cent per meal).

State Expenses

The following schedule shows the expenses, by category, allocated to commodity donations used in the school lunch program for each State visited for the 1979-80 school year. It should be noted that some States had no transportation and warehousing expenses. This is because in these States the districts are responsible for obtaining the commodities at pickup points such as rail sidings and arranging for their storage.

ESTIMATED STATE COSTS TO ADMINISTER COMMODITY DONATIONS FOR SCHOOL LUNCH PROGRAM IN SCHOOL YEAR 1979-80 (note a)

Cost category	California	Colorado	Idaho	Iowa	Missouri	Nebraska	New Jersey	New Mexico	New York	Pennsylvania	Utah	Virginia	Washington
	(in thousands)												
Overhead	$ 1,644	$ 250	$ 46	$ 189	$ 547	$ 310	$ 248	$ 288	$ 251	$ 623	$ 40	$ 211	$ 48
Transportation and warehousing	2,902	-0-	193	-0-	929	-0-	591	61	1,345	-0-	315	-0-	635
Other	29	-0-	-0-	-0-	-0-	-0-	58	4	55	-0-	4	6	-0-
Total	$ 4,575	$ 250	$ 239	$ 189	$ 1,476	$ 310	$ 897	$ 353	$ 1,651	$ 623	$ 359	$ 217	$ 683
Value of commodities used (note b)	$51,805	$8,622	$3,154	$13,842	$118,611	$5,430	$17,942	$6,338	$52,549	$39,958	$6,565	$24,200	$14,227

a/Eight school districts were visited in all States except New Mexico, New York, and Virginia where 10, 7, and 4 were visited, respectively.

b/For some school districts the value of commodities received during school year 1979-80 was used as an estimate of the value of commodities used by the districts.

State expenses were allocated, in most cases, based on the proportion of the value of the commodities used in the lunch program to the total value of all commodities used in the State for all programs, including those for needy families, charitable institutions, and summer camps. The allocated expenses would not necessarily be saved if USDA's commodity donation program were replaced with a cash or letter-of-credit system. This is because certain expenses, such as those to administer a replacement program, would have to be incurred regardless of the type of system used to provide assistance to school children. Some expenses, such as those for warehousing and transportation, would be more greatly affected by the type of assistance system used; however, to determine the extent of savings, if any, would require an analysis of each State's operations because they vary substantially.

Public Law 96-528, enacted December 15, 1980, provides for a 3-year USDA study to determine whether there may be more efficient, economical, and reliable methods of operating the commodity donation program for the school lunch program. The project calls for a random statistical selection of 60 school districts. Also, eight school districts which participated in an earlier USDA pilot project study 1/ will have the option of participating in this study.

1/In accordance with Public Law 95-166 (42 U.S.C. 1769, Nov. 10, 1977) USDA issued a study on the feasibility of a cash system entitled "A Study of Cash in Lieu of Commodities in School Food Service Programs" (Dec. 1979). This study and USDA's current study will be discussed in greater detail in a GAO report which will be issued shortly.

USDA will analyze the administrative feasibility and nutritional impact of cash payments and letters of credit. The study should also assess Federal, State, and local costs incurred by adoption of the test approaches. The study will also review the impacts on (1) Federal programs for providing adequate income to farmers, (2) the quality of food served, (3) plate waste, (4) local economies, and (5) local, regional, and national marketing of the commodities used in the school lunch program.

The USDA study should provide the Congress with useful data with which to make an informed decision on whether the commodity donation program should be revised or replaced with a cash or letter-of-credit system.

On June 20, 1979, the Senate passed a resolution (S. Res. 90) which asked the Secretary of Agriculture to address 11 issues directly related to the operation of three USDA school nutrition programs (school lunch, school breakfast, and special milk). Among the issues was program costs. An interim report was released on June 22, 1981, showing average per meal costs of $1.36, $1.53, and $1.66 depending on the type of kitchen facilities in which the meals were prepared. A final report will be issued later this year.

RESULTS OF INTERVIEWS WITH STATE AND SCHOOL DISTRICT OFFICIALS

We asked State and school district officials a series of questions regarding the commodity donation program as it relates to the school lunch program. In summary, the vast majority of the officials we talked with were generally satisfied with the operation of the program. The one program area most frequently cited as in need of improvement concerned the uncertainties about the availability and delivery of commodities.

General satisfaction with the program

About 89 percent of the State and school district officials responding to our question as to whether they were generally satisfied with the commodity donation program said that they were. As shown in the following table all State officials and about 88 percent of the district officials said that they were generally satisfied with the program.

	States		Districts (note)		States and districts	
	Number	Percent	Number	Percent	Number	Percent
Generally satisfied	13	100	87	88	100	89
Not generally satisfied	0	-	12	12	12	11
Total	13	100	99	100	112	100

Note: Officials of two school districts did not respond to our question.

Program improvements needed

We asked the officials what improvements could be made to the program. The matters most frequently mentioned were the uncertainties of commodity availability and delivery schedules and the timing of deliveries. The officials said that they were in need of better information on what commodities are available and when they would be delivered in order to better plan their own purchases and that deliveries of large quantities of commodities near the end of the school year should not be made as this requires schools to serve these commodities too often in order to use them before school closings and/or store them through the summer vacation.

Another matter frequently mentioned concerned the need to give more consideration to school district preferences regarding the types of commodities made available to them. A number of commodities were frequently mentioned as hard-to-use items either because of the form they came in, the quantities received, and/or that students did not prefer them. Some examples of the commodities mentioned are dehydrated sweet potatoes, raisins, prunes, canned meats, and peanut granules.

Advantages and disadvantages of program

We asked the officials about the advantages and disadvantages of participating in the commodity donation program. Many of the disadvantages cited corresponded to the answers given regarding improvements needed in the program; that is, problems regarding the scheduling and timing of deliveries, uncertainties of commodities available, and the difficulties encountered in using certain types of commodities. These problems, in turn, create planning and storage problems. Examples of the advantages often cited were:

--lower cost meals,

--quality of commodities,

--menu variety,

--children receive balanced meals and learn about "new" foods, and

--removal of farm product surpluses.

Can districts purchase commodities as cheaply as USDA

We asked district officials whether they could purchase commodities at prices equal to or below USDA's costs. The responses given were related to USDA assigned values which, as discussed on page 11, include USDA costs to purchase the commodities and transportation and other costs. Thirty-three of the 100 district officials responding to this question said that they could buy at least one or more types of commodities of similar quality at or below the USDA assigned value. A few said that they could buy most or all types of commodities at or below the USDA value.

Although most State officials did not respond to this question because most States do no purchasing, several expressed the view that the larger school districts could purchase foods at comparable prices to the USDA assigned values but that smaller districts could not. Similar comments were also made by some school district officials.

Views on cancelling program and/or switching to other systems

We asked the officials how their school lunch programs would be affected if donated commodities were no longer made available. Examples of typical comments were that without the donation program (and no replacement) food costs would rise, participation would decrease, and the lunch program would either have to be scaled down (providing snacks or a la carte type lunches) or be dropped.

We asked State and district officials whether they would prefer replacing the commodity donation program with cash or letter-of-credit systems. None of the 11 State officials responding wanted the donation program replaced. Of the 94 district officials responding to our question as to whether they preferred cash-in-lieu of commodities, 29, or 31 percent said that they preferred cash. Of the 91 district officials responding to our question as to whether they preferred a letter-of-credit system to the commodity donation program, 9, or 10 percent said that they preferred letters-of-credit.

It should be noted that the officials we talked with could have different concepts about how a cash-in-lieu or letter-of-credit system would operate which might effect their answers to these questions. Also, some did not respond because they were not knowledgeable enough about such systems.

Examples of some of the disadvantages cited for the cash-in-lieu-of-commodities system were that costs would rise, quality of food would decrease, USDA would not dispose of its surpluses, and program funding could be subject to budget reductions. The advantages cited dealt with better local control to buy the types of items wanted and when they are wanted which would result in lower administrative and storage costs and eliminate the need to deal with hard-to-use items. Some officials said that the overall cost of their school lunch programs would decrease.

Examples of some of the disadvantages cited for the letter-of-credit system were that many of the problems associated with the commodity donation program would continue (i.e., uncertainties about availability of items and deliveries and problems of dealing with hard-to-use items) and that there would be additional administrative burdens. An advantage cited for the letter-of-credit system was that it would maintain the relationship between the objectives of the school lunch program and surplus removal.

Reprocessing of commodities

We asked State and district officials whether they consider it worthwhile and cost beneficial to reprocess USDA donated commodities. Generally officials of those States that were reprocessing commodities, of which there were 6, said that it was worthwhile and those that did no reprocessing said it was not worthwhile. 1/

Few of the school districts we visited had commodities reprocessed by private firms. Examples of the most common reasons given for not having commodities reprocessed by private firms were that it is cheaper for the schools to reprocess the commodities themselves as the labor was already paid for, the products they make are of better quality, and the volume of commodities used was too small.

1/Reprocessing was construed to mean only that reprocessing performed by private contractors and not in-house reprocessing.

Senator **Symms**. Thank you, Mr. Chairman.

Mr. **Ireland**. Has the USDA replied to the GAO?

Senator **Symms**. I don't think so, although I will defer to Bill Fay, of my staff.

Mr. **Ireland**. The USDA will be here tomorrow.

Senator **Symms**. There is resistance on the part of the USDA, and I understand that. They have a constituency and some of the commodity groups are fearful that somehow it would make a change in which commodities are purchased in these programs.

I personally have no fear about that. I think they are going to buy so much peanut butter and so much hamburger, and so much pork for the school lunch program. The result will be that the food service people will be buying about the same amount of food, and it will turn out the same for the farmers and for the producers of agriculture.

Mr. **Fay**. The General Accounting Office only completed a study 1 week or so ago, and this is actually the first public disclosure, the first public airing of the document since GAO presented it.

Mr. **Ireland**. That is fine. I thought we should know that before hearing from them tomorrow.

Mr. Stenholm, have you any questions?

Mr. **Stenholm**. I have no questions, Mr. Chairman.

Mr. **Ireland**. The procurement system is important to small business, and, of course, that is the focus of our hearings.

Senator **Symms**. Congressman Stenholm and I have spent some time together on the House Agriculture Committee. We know there is some USDA resistance. I would not want to in any way downplay that. There are legitimate concerns of commodity groups that somehow a cash program might interfere with the amount of commodities they have been able to move through the school lunch program.

Mr. **Ireland**. Senator, thank you very much.

Senator **Symms**. Thank you very much. I appreciate the opportunity to be before you.

Mr. **Singer**. Mr. Chairman, I have with me Tom Wenning, who is with the firm of Bison & Wenning, legislative counsel to NFBA. Some questions may be better answered by him.

Mr. **Ireland**. Your presentation was quite complete, and I thank you for it.

You spoke very clearly on the need for the decentralization. Do you see any hazards in getting the excess commodity part of the Department of Agriculture's system changed by a decentralized distribution system?

Mr. **Singer**. Do you mean would the decentralization use up all of the excess commodities?

Mr. **Ireland**. Yes.

Mr. **Singer**. I don't know that that is necessarily our concern in regard to the school lunch program.

The point of the school lunch program, as I understand it, is to enable schoolchildren to obtain nutritious meals that they would not otherwise get. It doesn't mean making them use up excess commodities that they don't want or don't need.

I am not speaking against that commodity program. Maybe there are other avenues for distribution of some of that excess commodity. I have learned of examples of turkeys that were shipped in excess. Many of those turkeys have gone to waste, but others where the local school boards were anxious to try to make the most of it, they had to reprocess it. For example, turkey rolls. First of all, that is an excess cost to them. Second, afterwhile, the schoolchildren just get tired of eating turkey roll, turkey roll, turkey roll.

There are other nations where people are hungry. Maybe that is a source for using some of these excess commodities.

Mr. **Ireland**. That is a excellent clarification. It is one that will have to be made.

Does the gentleman from Texas have any comment at this stage?

Mr. **Stenholm**. On page 7, where you give your conclusions, they gave the school districts a choice for cash in lieu of commodities, commodity letters of credit, commodity allowances, or some other system. Is there any room, in your opinion, for continuation of the basic system as we now have it in any form.

Mr. **Singer**. Do you mean using some of the commodity distribution? If it is done on the choice of the local school district, yes. If they want commodity distribution from USDA supplies, we are for that if that is what they want, but not forcing it down their throat.

Mr. **Ireland**. You touched a little bit on food standards. How do you find the USDA's food standards compared to your members' standards? Quite candidly, we have had a lot of people criticizing the USDA standards.

Mr. **Singer**. Mr. Chairman, I don't think I am qualified to answer that. I am afraid I cannot answer that question—the relative standards of USDA versus what could be purchased in the marketplace.

Mr. **Wenning**. I think we have had some concern, and it is not detailed as to what specific standard is overstandard, but we have had some general objections to the specifics and the details that the USDA regulations go into in terms of overregulation, from that general guideline. It is just a problem to follow all the regulations that come out on all the different food commodities, and so forth, as far as meeting all the requirements is concerned.

Mr. **Ireland**. Very well.

Thank you Mr. Singer. We appreciate your testimony, and also your courtesy to the Senator from Idaho.

Our next witness is Mr. Denis Zegar, director of Government services, National-American Wholesale Grocers' Association.

TESTIMONY OF DENIS R. ZEGAR, DIRECTOR, GOVERNMENT SERVICES, NATIONAL-AMERICAN WHOLESALE GROCERS' ASSOCIATION

Mr. **Zegar**. Mr. Chairman and members of the subcommittee, I want to thank you for the opportunity to appear before you today to present the views of the National-American Wholesale Grocers' Association with regard to the national school lunch program.

Aside from my being director of Government services for NAWGA, I have another particular concern. I used to be a former tax economist for the Senate Small Business Committee, so I am acutely aware of the many problems that small business enterprises have.

NAWGA is a national trade association representing nearly 400 independent wholesale grocers and food service distributors. These companies, both large and small, supply nearly $50 billion of the Nation's wholesale grocery product volume and provide a wide array of services to the independent retail grocery stores, hospitals, schools, restaurants, and other food service establishments throughout the United States. NAWGA's food service division, the International Foodservice Distributors' Association—IFDA—represents 248 member firms who sell annually nearly $10 billion in food and related products to the institutional, away-from-home food service market.

We believe the national school lunch program has had an important and significant impact on the lives of millions of American children, and particularly on the lives of low-income people across the country.

The school lunch program feeds 26 million children nearly 5 billion meals annually. Presently, 80 percent of the food is purchased directly from private food wholesalers, processors, producers, and retailers which assures schools of fresh, nutritious, quality foods. The remainder is bought and donated by the USDA through its commodity procurement programs and distributed through school lunch programs.

Keeping in line with President Reagan's efforts to reduce Government spending and at the same time preserving the national school lunch program, NAWGA has actively supported a 100 percent cash-in-lieu-of-commodities program. The present system of commodity procurement and distribution is costly, ineffective, clearly inflationary, and impedes competition.

If the chairman would bear with me for a moment, I would like to construct an example of the inefficiencies that exist in the current USDA program.

THE TURKEY/CHEESE SANDWICH

USDA buys whole turkeys from a company in Iowa, has them shipped to, among other places, Pennsylvania, where it is stored in a commodity warehouse in Pittsburgh.

USDA buys flour from a company in Indiana and has it shipped to Pennsylvania, where it is stored in its commodity warehouse in Pittsburgh.

USDA buys cheese from a company in Wisconsin, has it transported to one of its warehouses for aging, lets a contract to reprocess the bulk cheese into 5-pound loaves, and moves that cheese from its warehouse to Pittsburgh.

The flour, cheese, and turkeys are moved from the State warehouse in Pittsburgh to a school district leased warehouse outside Pittsburgh.

The turkeys are then moved from the school district warehouse to New York, where these turkeys are processed into turkey luncheon meat. The flour and cheese stay in the school district leased warehouse while this occurs.

After the turkeys have become luncheon meat and are on their way back to Pittsburgh, the school district sends the cheese and flour to meet the turkey luncheon meat en route to Pittsburgh, and all three commodities now make their way to Wisconsin.

In Wisconsin, the flour, cheese, and turkey luncheon meat are joined together to make a turkey/cheese sandwich which is then shipped from Wisconsin back to Pittsburgh, where it is stored in the local school district leased warehouse.

Eventually, the turkey/cheese sandwich leaves the school district warehouse for delivery to school lunch program kitchens, where the sandwich is used for school lunches.

The school district pays for the turkeys to be processed into luncheon meat; it pays for the cheese and flour and turkey being made into a turkey/cheese sandwich plus the addition of other ingredients. The price of the sandwich now is the regular market price less the value of the donated food that is contained in it plus all transportation and processing costs.

One need not have a Ph. D. in economics to realize the gross inefficiencies of the current school lunch program. Rather than cut any more funds from the school lunch program, we need only allow school districts to purchase needed commodities locally to insure a cost efficient and nutritious school lunch.

NAWGA's support of cash in lieu of commodities is based on a study conducted by Kansas State University and cosponsored by NAWGA/IFDA. The study overwhelmingly supports the conclusion that cash in lieu of commodities is more cost efficient and program effective.

The Kansas State University eight-city pilot study demonstrated that:

One, in general, food costs for type A lunches are less with cash in lieu of commodities than the previous year using donated Government commodities.

Two, all of the project directors of the pilot study prefer the cash program. This enables the local school district directors to purchase food at a competitive price—and that their children would eat.

Three, more dependable delivery dates plus better menu planning under the cash program. Under the present USDA commodity program, USDA may ship thousands of pounds of hamburger meat to a local school district based on availability regardless of whether school is in recess or not. The school district would have to warehouse that hamburger meat until September, when school begins again, at a cost they must bear.

Four, more flexibility in purchasing and greater purchasing power because the food is bought locally. While cash in lieu of commodities will save money, it will also provide a sure boost for the local economy of our Nation. Schools which now buy 80 percent of their needs locally will now buy 100 percent. This means more full trucks and lower energy costs per trip. It also means more competition among local suppliers who wish to sell to local school districts.

Five, cash allows better inventory control, significantly reduced storage and transportation costs, and reduced paperwork.

Six, cash would reduce processing costs associated with converting the donated commodities into usable end products. Schools would no longer have the USDA in Washington deciding in what form they should receive their commodities. If schools wish to purchase turkey loaf rather than whole turkeys, they may do so.

Seven, school districts can order food products that are both nutritious and which children will eat, thus reducing costly plate waste. Waste is further reduced by adding accountability at the local level. When schools get crushed spaghetti, or a leaking can of peaches, or bent or swollen cans in a case, they are thrown out and not replaced under the commodity program. Why, because the vendor is some distant and sometimes unknown company. You can be sure that a school lunch program that buys a product from a local vendor and gets bent or swollen cans, leaking cans, or crushed products, returns that product for full value. Why, because the vendor wants a satisfied local customer and repeat business.

Mr. Chairman, and members of the subcommittee, we urge you to consider the benefits that come from a cash-in-lieu-of-commodities program. If we allow the free enterprise system to work, small business will thrive and produce a product that is competitive and cost effective.

Thank you very much.

Mr. IRELAND. In your past experience, is there anything our general distribution system, made up mostly of small business, cannot do?

Mr. ZEGAR. In the 3½ years with the committee, I have traveled to thousands of cities. I have met with thousands of small business people, and I have yet to come across a group of more industrious individuals. I would doubt seriously if there is anything that once they set their minds to do, they can't. Their basic survival depends upon them being able to do things that large business or big business in general either doesn't want to do or can't do efficiently or effectively.

Mr. IRELAND. Does counsel have any questions?

Mr. TOPPING. I think the Agriculture Department indicates it has the problem of disposing of surplus commodities. How can it do it better through the free enterprise system?

Mr. ZEGAR. Well, I believe the last witness addressed that partially.

I am a tax economist, not an agricultural economist, but given the fact that only 20 percent of the commodities go to the school lunch program, I find it rather hard to believe that that small amount in the commodity program will have any disruptive effect on the overall price support system or commodity system in general, nationwide.

I do believe these excess commodities that might be available can be absorbed within the system in a variety of ways without being disruptive.

Mr. TOPPING. I asked the question as a devil's advocate, as the chairman says. Not that I agree. I wanted your reply on the record.

Mr. LYNCH. I think we will probably be told tomorrow that a lot of the companies who deal with the Department of Agriculture in the commodity program are small businesses, but there seems to be a small number of these small businesses that deal with the USDA.

Have you heard complaints that there are companies who sell to the USDA but who have very few other customers, other than the Government?

Mr. **Zegar**. I am not sure I can answer that. Our membership generally does not do a great deal of procurement with the Government. If you have ever looked into--and I am sure you have, Steve—the redtape, regulations and everything else that goes with it, it isn't worth it.

For the most part, I have not really heard of anything that would either support or contradict that.

Mr. **Lynch**. Have you heard complaints that some of the products USDA purchases for use in school lunch programs, and some of the other children's feeding programs, cannot be purchased anywhere else other than through the USDA program? In other words, if you went to a grocery store, you could not procure that product?

Mr. **Zegar**. Based upon knowledge of my membership and my own knowledge, I have yet been able to go into a grocery store and not been able to buy a turkey, canned peaches, or any other commodity, for that matter, that USDA supplies.

Mr. **Lynch**. Thank you.

Mr. **Ireland**. Thank you so much.

The next witness is Mr. Joseph Marshburn, chairman of the Government Relations Committee of the National Frozen Food Association, Inc., accompanied by Michael Giuffrida, of the firm of Giuffrida, Calvert & Associates, and Richard C. Funk, president and chief operating officer.

TESTIMONY OF JOSEPH MARSHBURN, CHAIRMAN, GOVERNMENT RELATIONS COMMITTEE, NATIONAL FROZEN FOOD ASSOCIATION, INC., LAKE WALES, FLA., ACCOMPANIED BY RICHARD C. FUNK, PRESIDENT AND CHIEF OPERATING OFFICER, NFFA, AND MICHAEL GIUFFRIDA, GIUFFRIDA, CALVERT & ASSOCIATES

Mr. **Marshburn**. Mr. Chairman, and members of the subcommittee, I am Joseph Marshburn, of Lake Wales, Fla. I am executive vice president and general manager of Citrus World, Inc., of Lake Wales.

Mr. Chairman, I am very proud to be here this morning. I am very proud to be from Florida, and I am very proud to be from your district in Florida.

Mr. **Ireland**. Thank you. I am proud to have you here.

Mr. **Marshburn**. Citrus World is an agricultural cooperative of 1,200 Florida citrus growers, all of who are small businessmen and women. Through our distributors and the USDA commodity program, we have been and continue to sell produce which is used in school lunch and school breakfast programs as well as other Government food programs throughout the Nation. I might also add that I have served on the school lunch marketing committee of the Florida Citrus Commission, where I have gotten a firsthand look at the USDA commodity program and the market for food in schools.

I am appearing before you today representing producers of an agricultural commodity which the USDA has historically bought for the national school lunch and other Federal food programs through the donated commodity program. I am also appearing here today as chairman of the National Frozen Food Association's Government Relations Committee.

The National Frozen Food Association is composed of almost 1,400 companies plus their divisions and subsidiaries. Over 90 percent of the companies which are members of the National Frozen Food Association are small businesses. NFFA members are either processors or packers, wholesale distributors, or food brokers. In addition, we have some food service operators, warehousemen, transportation companies, and retailers as members.

I am accompanied today by the National Frozen Food Association's Washington, D.C. representative, Michael Giuffrida, of the firm Giuffrida, Calvert & Associates. I am also accompanied by NFFA president and chief operating officer, Richard C. Funk. We will be pleased to answer the subcommittee's questions at the conclusion of my statement.

The committee has heard such testimony from elected school board members, from local school food service operators and from individual businessmen and women, plus commodity line trade associations. I have reviewed that testimony and, Mr. Chairman, it looks to us like you have gotten a real earful in your earlier hearings on this subject.

To set the framework for my testimony, I believe it would be of interest for the members of the subcommittee to know that the National Frozen Food Association has no quarrel with USDA deciding which commodities are in surplus and how much of these commodities can be used without waste in school lunch programs.

We also have no quarrel with the congressional objectives of the various commodity price support programs. We do have a problem with USDA competing with the private food system by setting up a separate expensive and inefficient food-processing and distribution system which operates outside normal channels of trade.

We also quarrel with USDA thinking that it can decide here in Washington, D.C., what form to buy turkey or beef for 26 million children in 94,000 schools across the Nation.

We believe that USDA should continue to carry out its role of deciding which commodities are truly in surplus and which price-supported commodities can be effectively used in school lunch programs without waste.

We believe that it may be appropriate for USDA to subsidize these commodities but that this support should allow the schools themselves, to decide what is the best form for them to use these commodities.

If turkey is in surplus, we say let the schools decide whether they want to buy whole turkeys, or turkey rolls. If dairy products can be used by the schools, let's follow the same approach. Schools now buy at least 50 percent of their food needs for their lunch programs from local businesses. They could buy 100 percent of their food needs locally and work with USDA to remove surpluses and use price-supported commodities while at the same time buying the commodities in a form they can use and getting the foods when they need it at competitive prices.

COMPETITION

Your letter, Mr. Chairman, asked that we comment on the degree of competition in USDA purchases for the donated commodity programs. In preparation for this hearing we reviewed USDA buys, and we found a startling apparent lack of competition in supplying the commodities USDA buys. I am going to run through a long list of commodities and tell you how much the USDA bought in the time period studied and how great the concentration was in companies supplying the product.

You will note any number of instances where one company was supplying 40-50-60, and yes, even 100 percent of the USDA buy. There are a lot of reasons for this, some of which I will explore later in my testimony. Now, to our examples:

[The list of examples follows:]

EXAMPLES OF USDA COMMODITY BUYS

Time period	Commodity	Analysis
January 1979 to February 1980.	Ready to cook young turkey	USDA bought 21.5 million pounds and 4 companies supplied 62 percent of the pounds bought. There are hundreds of companies who make and could supply a similar if not identical product.
Do	Canned beef	USDA bought 7 million pounds and 1 company supplied 70 percent of the pounds; 2 companies together supplied 91 percent of the product. Canned beef is not an unusual product and could be supplied by many companies.
Do	Bulk frozen ground beef	USDA bought 73.2 million pounds and 4 companies supplied 61 percent of the pounds. As you have heard in prior testimony there are there are literally 7,000 companies who can supply ground beef.
Do	Cooked turkey roll	USDA bought 32.9 million pounds, 1 company supplied 62 percent of the pounds and the top 2 companies 89 percent. Neither company is located in a turkey-producing State. There are hundreds of companies that produce turkey roll.
Do	Fresh frozen cut up chicken	USDA bought 81.7 million pounds and 4 companies supplied 61 percent of the pounds. There are literally hundreds of companies which could supply this product.
Do	Cooked frozen cut up chicken	USDA bought 21.8 million pounds and 2 companies supplied 68 percent of the pounds bought. There are at least 200 companies which make this product.
Do	Whole frozen chicken	USDA bought 10.9 million pounds and 1 company supplied 75 percent of the pounds bought. There are hundreds of companies who have such a product available.
Do	Canned boned chicken	USDA bought 20.1 million pounds, 1 company supplied 40 percent of the pounds. There were 4 winning bidders. There are at least 50 companies which could supply it.
Do	Whole turkey	USDA bought 30.9 million pounds and 3 companies supplied 63 percent of the pounds. There are many, many turkey growers in this Nation.
October 1979 to May 1980	Bulk frozen pork	USDA bought 20.5 million pounds and 1 company got 52 percent of the pounds. The next closest company got 13 percent.
Do	Canned pork	USDA bought 30.4 million pounds and 3 companies split the bid 41 percent, 31 percent, 28 percent.
November 1979 to May 1980	Roasted peanuts	USDA bought 5.8 million pounds and 1 company got 63.7 percent of the bid.
Do	Peanut granules	USDA bought 900,000 pounds and 3 companies got the bid at 42.2 percent, the largest supplier. The same company that got 63.7 percent of the roasted peanut bid got 31.03 percent of the peanut granule bid.
January 1980 to May 1980	Peanut butter	USDA bought 195,413 cases or drums with 1 company getting 68 percent of the bid. This was the same company that got 42 percent of the peanut granule bid.
May 1979 to May 1980	Frozen french fries	USDA bought 100.5 million pounds and 3 companies got 79 percent of the bid.

EXAMPLES OF USDA COMMODITY BUYS—Continued

Time period	Commodity	Analysis
May 1979 to May 1980	Frozen potato rounds	USDA bought 61.3 million pounds and 3 companies got 70 percent of the bid, 1 company 40 percent.
Do	Dehydrated potatoes	USDA bought 20.6 million pounds and 2 suppliers got 55 percent of the bid.
April 1980 to May 1980	Pasteurized process American cheese.	USDA bought 41.8 million pounds and 2 companies got 56 percent of the business.
January 1980 to April 1980	Spaghetti	USDA bought 3.4 million pounds and the top 2 companies got 37 percent of the pounds.
Do	Milled rice	USDA bought 10.7 million pounds, 3 companies supplied 19 percent of the pounds; the top 2 75 percent of the pounds.
Do	Macaroni	USDA bought 2.7 million pounds, 1 company supplied 40 percent.
Do	Hard wheat flour	USDA bought 33.6 million pounds, 1 company supplied 51 percent.
Do	Wheat flour	USDA bought 52.9 million pounds, there were 23 winning bidders and the top 11 got 80 percent of the pounds.
Do	Cornmeal	USDA bought 2.6 million pounds and 1 company got 47 percent.
December 1979 to November 1980.	Raisins	USDA bought 784,640 cases and 1 company got 77 percent of the pounds.
May 1980 to December 1980	Baby lima beans in brine	USDA bought 37,400 cases and 1 company got 53 percent.
Do	Canned pineapple juice	USDA bought 36,000 cases and 1 company got 83 percent of the business.
Do	Canned pineapple	USDA bought 11,760 cases and 1 company got 60 percent of the business.
Do	Canned orange juice	USDA bought 128,000 cases and 1 company got 43 percent of the business.
Do	Canned pears	USDA bought 29,600 cases and 1 company got 75 percent of the business.
Do	Canned purple plums	USDA bought 25,900 cases and 1 company got 100 percent of the business.
Do	Canned pumpkin	USDA bought 16,800 cases and 1 company got 67 percent of the business.
Do	Canned sweet potatoes	USDA bought 349,600 cases and the top 2 companies got 46 percent of the business.
Do	Canned white beans in tomato sauce.	USDA bought 613,800 cases and the top 2 companies got 65 percent of the business.
Do	Canned pinto beans in brine	USDA bought 239,800 cases and the top 2 companies got 66 percent of the business.
Do	Canned blackeye peas in brine	USDA bought 57,200 cases and the top supplier got 43 percent of the bid.
Do	Canned small red beans in brine.	USDA bought 77,000 cases and the top 2 companies got 77 percent of the business.
Do	Canned vegetarian beans	USDA bought 36,400 cases and the top supplier got 43 percent of the business.
Do	Canned red kidney beans in brine.	USDA bought 59,400 cases and the top 2 suppliers got 67 percent of the business.
Do	Frozen peas	USDA bought 270,600 cases and top 2 companies got 46 percent of the business.
Do	Canned peas	USDA bought 540,800 cases and 1 company got 32 percent of the business.
Do	Frozen green beans	USDA bought 169,400 cases and top 2 companies got 60 percent of the business.
Do	Canned green beans	USDA bought 36,400 cases and top company got 79 percent of business.
Do	Canned peaches	USDA bought 899,800 cases and 1 company got 50 percent of business.
Do	Prunes	USDA bought 198,120 cases and 1 company got 87 percent of the business.
Do	Canned tomato catsup	USDA bought 694,200 cases and 1 company got 51 percent of the business.
Do	Canned spinach	USDA bought 8,400 cases and 1 company got 66 percent of the business.

EXAMPLES OF USDA COMMODITY BUYS—Continued

Time period	Commodity	Analysis
May 1980 to December 1980	Canned apple juice	USDA bought 390,000 cases and top 2 companies got 50 percent of the business.
Do	Canned applesauce	USDA bought 1,250,000 cases and the top 3 companies got 51 percent of the business.
Do	Canned whole kernel corn	USDA bought 522,900 cases and top 2 companies got 45 percent of the business.
Do	Canned corn, cream style	USDA bought 28,000 cases and 1 company got 50 percent of the business.
Do	Canned fruit cocktail	USDA bought 44,350 cases and 1 company got 70 percent of the business.
Do	Canned grapefruit juice	USDA bought 28,000 cases and top company got 50 percent of business.
Do	Dry edible beans	USDA bought 5.8 million pounds and the top 2 companies got 76 percent of the business.

Mr. MARSHBURN. Obviously, as you go through this, you see there are tremendous volume purchases being made by a few companies—and even though there are just literally hundreds of companies around the country that could supply these products locally.

Mr. Chairman, during the course of your hearings, you have heard that concentration of USDA buys is not bad, since there are some small businesses which get USDA bids. The facts are that there are some small businesses which get business from the USDA commodity program. These companies are what is called Government-sized businesses. And further, the percentage of small business companies who could participate as opposed to those that do is so small as to be ludicrous.

I think it was Steve who asked earlier about that subject. The answer is, yes, there are businesses set up totally to do business with USDA. Virtually their total income is derived from that type of business. Not only USDA, but also defense supply and other businesses related to the Government.

The USDA purchase program encourages companies to be founded and to operate almost exclusively to service the USDA commodity program's needs. We believe that such a situation is unhealthy and unnecessary. We believe that it is bad national policy for the Federal Government to encourage the formation and growth of food processors who exist only to service the needs of Government. These companies do not have an interest in establishing a brand identification either on a regional or national level. Nor do these companies have any kind of a distribution system other than the USDA system which operates outside normal channels of trade. Too many of the companies which service USDA exist as slaves to the USDA food system, and we believe this situation ought not be allowed to continue.

WHY IS COMPETITION SO LIMITED?

There are several factors associated with the USDA commodity program which act to limit competition. These are: Product specifications, packaging, minimum bid lot sizes, and inspection and grading requirements. You have heard about inspection and grading requirements from the American Association of Meat Processors, which testified eloquently on the subject. We will not reiterate their testimony. However, we will comment on other matters.

First, production specifications: The commodities which USDA buys are bought based on quality specifications which are often different from and often inferior to commercial quality products. USDA says that the schools buy 80 percent of their foods for school lunches locally—a figure we do not agree with. It does not make much sense for USDA to buy a different or lower quality product for the schools than they would buy locally themselves. We believe that schoolchildren have the right and that school food service operators have an obligation to provide the same quality chicken and turkey roll every time a child buys their lunch in school. If the quality of the product offered is not consistent, participation goes down and plate waste increases.

The most frequent complaints we have heard involve canned boned chicken, turkey roll, french fries, and some fruits and vegetables such as canned peaches and corn. Years ago, the USDA was directed to buy off-the-shelf commercial quality products. They have not done it. When USDA buys special specification products, the number of companies which can supply it is limited and, therefore, competition is limited. The companies which are closed out are those hundreds and even thousands of firms who pack commercial grade and quality items and cannot afford to set up a special run for USDA specifications.

USDA buys french fries which need to be deep-fat fried and sends them to schools that don't have deep-fat fryers. USDA also sends these same schools shortening for the fryers they do not have. On the other hand, USDA sends oven brown fries to schools with deep-fat fryers. When this happens, it encourages waste.

More about french fries: 3 years ago, we visited USDA and suggested that they buy shorter french fries. Why? A number of our member companies and their customers were putting together school lunches in large central kitchens, and the USDA french fries were too long to fit in the preformed plates. We suggested that USDA survey the States and consider buying a shorter french fry for at least a part of their next purchase. We were told that they could not change the specification because USDA always buys 3-inch french fries.

The fact that USDA was buying french fries that were unusable to a substantial number of schools did not make a difference. If these fries were bought to meet normal commercial specifications and there was flexibility to allow for schools' needs, there would be more bidders and more satisfied school customers.

Second, packaging: The packaging that USDA buys commodities in also contributes to a lack of competition.

A. USDA buys frozen ground pork and frozen ground beef in 55-pound blocks, when the commercial trade sells the same product in 10- or 15-pound tubes. Consider the ability of local school food service districts to move around 55-pound frozen blocks in view of the weight and bulk. I wonder how many broken toes these products have caused. It also should be noted that the whole 55-pound block needs to be thawed to use any part of it. This poses a problem particularly for small school districts.

B. USDA buys whole turkeys, two 20-pound turkeys to a case. Can you imagine how much freezer space 80 turkeys would occupy? Most school districts can't use whole turkeys because they are labor-intensive. So they must be processed. Given the choice, local school districts would still use turkey but in a far different form. The food industry provides turkey parts but not whole turkeys because they are not suitable for mass meal preparation.

C. USDA ships raisins to school districts in 1.3-ounce boxes. Can you imagine the labor cost of opening several hundred such boxes to use the raisins in baking? Once again, school districts would still use raisins but not the way USDA supplies them.

On the raisin issue, I have some really close friends in the raisin business, and I would hate to have them criticize this statement.

The 1.3 ounces is ideal for a single service, and it is used in the schools very, very effectively. But when the commodity programs deliver these raisins to the schools in such quantities they can't be served every day, they have to find other ways to use the raisins, and, therefore, it is necessary to open these small little packages and mix them with flour to make bread and dispose of the surplus item in other ways.

Raisins are good. The raisin people are partners of mine—good farmers.

D. USDA supplies flour, nonfat dry milk and rice in 50-pound bags. School districts buy 25-pound bags when they do their own buying, because they are more manageable for the predominantly female school food work service. A 50-pound bag can be quite heavy.

E. USDA occasionally supplies Cheddar cheese in 40-pound blocks which frequently make their way to the vocational education school, where they are subdivided using band saws

F. You should also be aware that USDA, through its buys, has successfully brought about the beginning of a new business—how to open, use, and dispose of the thousands of No. 10 cans in which USDA supplies commodities. It is not uncommon for a school food service director to have to open hundreds of No. 10 cans to serve one meal.

Third, USDA minimum bid requirements operate to limit competition. When USDA says that the minimum bid they will accept for a commodity purchase is a whole car lot, they effectively close out most small businesses except the Government-sized small businesses. Operating together with special specifications and special packaging, this is often the straw that breaks the camel's back.

When a meat packer is used to supplying ground beef or ground pork in 10- or 15-pound tubes normally, and USDA comes along and says you can sell us the same product except it must be in 55-pound boxes, and you must agree to supply 38,500 pounds at one time, the small company throws up its hands and does not play the game.

Why should USDA require that canned fruits and vegetables be supplied in minimum lot sizes of 2,200 cases, or 80,000 pounds, and for peanut butter, 90,700 pounds? There are few small nongovernment-sized small businesses which can afford to close down normal production and tool up for the special USDA needs. How many small business turkey growers do you know who can supply 70,000 pounds of whole turkey at one time?

Fourth, USDA makes most of its buys based on a price for the product at the plant where it is made. The exception is poultry products which are bought at a price including delivery to a central State distribution point. When USDA buys at the plant, the transportation, storage and handling costs are added on to the price of the commodity and are substantial for national distribution. The price that a company bids does not include getting the product anywhere near its final destination, and this puts the local companies who could bid a competitive price to deliver product in their area at a distinct disadvantage. It is an anticompetitive situation which the U.S. Government encourages.

If USDA would buy, based on a State destination price, buy commercial quality specifications, eliminate the sometimes unreasonable specification and inspection requirements, use normal commercial packaging, and reduce their minimum bid requirements, we believe that competition would be substantially increased and schools would get more of what they want when they want it. We also believe that USDA should provide some range of product choices within the commodity groupings to help schools get commodity products they can use. Finally, we also believe USDA should take steps to assure that their potential bidders' lists are more open and accessible not only to processors but to distributors as well. Frequently, a distributor serves a three State or more area and would be able to bid on USDA commodity buy needs.

COMPETITION IN PROCESSING

What about competition in donated commodities processing? We are convinced that the regulations and policies which govern this program encourage anticompetitiveness and have a chilling effect on the ability of particularly small businesses and small school districts to participate. For small businesses, the enormous paperwork burden, exclusionary requirement, and efforts which the USDA has made to limit the role of wholesale distributors, all demonstrate an effort which effectively limits competition and encourages a concentration in donated commodity processing.

The paperwork in particular for this program is frustrating for State distribution agents and drives them into restricting and unknowingly or knowingly discouraging small business participation. A small business person does not respond favorably to unnecessary paperwork. Many small businesses do not have computers. The effects of this program as it now is operated cause an increase in the costs of processed commodities to the 94,000 schools in the national school lunch program and ultimately to the taxpaying consumer.

The whole commodity processing effort is geared in large measure toward moving USDA another step down the road to setting up a processing and distribution system outside normal commercial channels of trade. It is a separate system which in fact operates in direct competition to the private sector. It needs reforming.

COMPARABLE COSTS

The subcommittee has received testimony from local wholesalers as well as school food service operators, all of which indicates that locally purchased foods are comparable in price, and oftentimes cheaper, than USDA purchases of the same general types of commodities. We do not plan to go into this point in great detail, Mr. Chairman. We would, however, give one example from our own home State of Florida.

In this instance, we find a wholesaler who has won a bid to supply ground beef to a six-county school district buying group for the year at $1.19 per pound delivered to the schools. This wholesaler ordered the beef to make the deliveries and found that he would be making no deliveries for 6 months because the USDA had gone out and bought ground beef at a price of $1.32 per pound at the plant where it was purchased. Our distributor example had the ground beef in his warehouse to meet a bid. His price for the same quality in better packaging was less than USDA's. Yet he made not one delivery.

The only reason he had a better package is because he put it in a package the school asked for.

We have heard much talk from the USDA and others that the food industry should be unconcerned about the commodity program because USDA only supplies 20 percent of the food needs of schools and the remaining 80 percent are bought locally. Let me point out, Mr. Chairman, that the 80 percent USDA refers to includes the one-half pint of fluid whole milk which each child gets with their school lunch. Taking out the milk requirement, we find that USDA is, in fact, supplying 50 percent or more than the food needs of school lunch programs.

Mr. Chairman, I would cite two studies to back up my view on this. First, a recent study completed for Senator Symms indicates that in the States studied, USDA commodities accounted for an average of 23 percent of the food needs of local school lunch programs including the milk. Also, the National Frozen Food Association completed a study some time ago which documents that USDA is supplying over 50 percent of the center of the plate items. Since this is the big ticket item of the meal, what remains for local purchases are the leavings. The result of USDA buys is that more and more local suppliers are pulling out of school food service because of the commodity program limiting competition even further.

USDA COSTS—STATE AND LOCAL COSTS

Last year, during hearings on the proposed commodity letter of credit bill, sponsors said that USDA costs for the transportation, storage, and handling of donated commodities to the USDA were $55 million. USDA said those costs were $30 million not once but several times. The General Accounting Office now tells us that the USDA costs for transportation, storage, and handling of donated commodities for the national school lunch program are, in fact, $55 million.

Last year, during hearings on the proposed commodity letter of credit bill, sponsors said that State and local costs for transportation, storage, and handling of donated commodities were $140 million. Data compiled in the General Accounting Office report indicates that State and local costs approach $124 million. USDA said State and local costs were $71 million.

Mr. Chairman, we are pleased that the GAO report for Senator Symms vindicates the data which the commodity letter of credit supporters used last year. Perhaps if this data had been available last year, we would not be here today. The 18-to-18 vote in the House Education and Labor Committee might well have been a 19-to-17 vote, and we would now have a commodity letter of credit system in place. Senator Symms is to be congratulated for his efforts and GAO congratulated as well.

WASTE

USDA says it only buys those commodities which can be used without waste in the national school lunch program. Yet, according to the schools who get these foods, they refuse over 30 percent of the dry beans, dehydrated potatoes, canned tomatoes, cranberry sauce, bulgur, all-purpose flour, bread flour, whole wheat flour, macaroni, rolled oats, peanut granules, rice and rolled wheat. One commodity, frozen lemon juice concentrate, very little of which is produced in Florida——

Mr. **Ireland**. Especially, central Florida.

Mr. **Marshburn**. That is right—enjoyed a 90-percent refusal rate.

Schools also refused 30 percent of the fresh onions, 17 percent of the canned tomato juice, 14 percent of the frozen cut-up chicken, 11 percent of the whole frozen turkey, 13 percent of the egg mix, butter and mozzarella, 20 percent of the cornmeal, 28 percent of the regular peanut butter, 25 percent of the chunky peanut butter, 20 percent of the roasted peanuts, 27 percent of the margarine, 18 percent of the soybean shortening.

If USDA is buying only those commodities that can be used without waste, we wonder who is telling USDA what schools can use without waste; it certainly would appear that it is not the schools or the schoolchildren.

In testimony presented previously at your hearings on this issue, you heard examples of waste and inefficiency in the donated commodity program detailed by witnesses. Mr. Chairman, the hearings of the House Education and Labor Committee, Subcommittee on Elementary, Secondary, and Vocational Education held last year are replete with other examples of waste and abuse in the donated commodity program.

Mr. Chairman, we commend the record of these hearings to you and to the subcommittee staff. We request that they be reviewed by the subcommittee as part of your background for consideration in preparing your report and recommendations.

SECTION 32 FUNDS

Finally, Mr. Chairman, we have heard over and over again at your hearings as well as others on this program before the Congress that the funds for purchasing commodities come from section 32 of the Agricultural Adjustment Act. Section 32 funds come from

30 percent of the excise taxes collected by the United States, and they amount to in excess of $2.5 billion annually. Only about 20 percent of these funds are used by the USDA to purchase and donate commodities. The remaining 80 percent, or over $1.5 billion, annually go to provide schools with cash reimbursement for school lunches. My point, Mr. Chairman, is that when witnesses tell this subcommittee that the only use for section 32 funds is the purchase and donation of commodities for school lunch, they are in error.

We encourage the subcommittee to ask USDA for a report on where the billions they have received from excise tax receipts over the years have been spent. The Appropriations Committee addresses this issue every year in its report.

Why is it so important how section 32 funds are used? It is important because it bears directly on what alternatives USDA has available for changing the commodity program to utilize commercial channels of trade while still meeting the congressional objectives of price support and surplus removal.

Mr. Chairman, we appreciate the opportunity to testify here today. We will be happy to try and respond to your questions.

Mr. IRELAND. Thank you. That was outstanding testimony, and a good focus on what we are trying to do from a small business standpoint.

Let me ask you about the slave companies. I think we have a growing understanding that these companies almost are created to support the additional distribution system that the Department of Agriculture has set up over the years. Has your organization any thoughts on how this could be changed? What kind of things can the Congress or the U.S. Department of Agriculture do to limit that kind of situation?

Mr. MARSHBURN. Sometime ago, Congress did ask the USDA to purchase the so-called off-the-shelf food items for the schools. That doesn't mean off the supermarket shelf, but it means those items which are readily available in any of numerous forms to serve the food service market—the same channels of distribution that are being used to service hospitals, universities, restaurants, any large feeding area. USDA has not chosen to do that.

The alternative is that the companies who are creating new products, the companies who are investing in research for more nutritional foods to the people who buy through the mass feeding outlets, they are getting these benefits.

If you are in that business, you are not going to specialize in a business to serve schools because the packaging is different, the grades are different. So here evolves maybe a small company who says, "This is a business, maybe I can get into. I don't have enough money, or I don't choose to develop my own form of distribution," so he sets up equipment just to handle USDA business. That might be on peanut butter; it might be on turkey rolls.

These people, generally, are not directly involved in the source material, meaning they are not farmers. They don't go out and buy the goods at the farm level, bring it in and convert it. Generally, it is purchased in some bulk form and then they, in turn, package it in a package and to specifications that will be a service to schools. This simply means the schools are missing out on all the technology that goes into putting nutritious, healthful food in the mass feeding systems for hospitals, and so forth.

Mr. **IRELAND**. Asking them to use the off-the-shelf plan would have a dramatic effect, as would the alterations in specifications?

Mr. **MARSHBURN**. I think that would go a long way in focusing on the normal channels of distribution. If you buy the so-called off-the-shelf items, those items are readily available in the marketplace for the local schools, 52 weeks out of the year. It is not a case of these products not being available or they would have to be made up special. They are in the market and could be drawn upon as needed.

Mr. **IRELAND**. Mr. Topping?

Mr. **TOPPING**. The Department of Agriculture is charged with the responsibility of getting rid of the surplus commodities. They use other than the school lunch programs, the senior citizens and others. Do you think what you have said relative to the school lunch program would apply to the other areas as well?

Mr. **MARSHBURN**. Yes; we believe the commodity letter of credit system would enable USDA to identify the surpluses and through the issuance of these letters of credit to the schools, would encourage the purchase of those commodities specified on the letter of credit. It would also give the local schools the opportunity to purchase it in forms that would be more suitable for their use.

There is one other thing that troubles me about the surplus side. First of all, USDA has no formula for establishing what a surplus is.

As I understand it, the Secretary of Agriculture simply states that a commodity is in surplus. We have records to indicate that sometimes his selection of surplus does not correspond with the actual availability of foods in the marketplace. That concerns us. We think there ought to be some way to identify what a surplus is.

Second, it can be argued that in a capitalistic system of government, if an item is in surplus, its price will reflect that. Schools are no different from other forms of business. They tend to gravitate toward those items that are the most reasonable to buy.

There is some argument that we don't need all this concern about surpluses.

I, personally, am a farmer, and I know when orange juice is in surplus the price reflects it. Even though it is painful, our business increases substantially because more consumers are able to buy the product. We, generally, are able to manage this without the Government subsidizing us in the orange juice business.

I am not saying that is the best way, but it is the best way for us in the citrus business.

Mr. **LYNCH**. To get back to one of the examples that has come up many times in the hearings so far, exactly what is the 55-pound block of ground beef? Is that an entire block, a block frozen solid that weighs 55 pounds, or is it made up of separate packages?

Mr. **MARSHBURN**. I think I can answer that, but I know Mike can answer it.

Mr. **GIUFFRIDA**. They buy it two ways. Until a year ago, it was a block. Now they have adopted a policy where they are buying a 55-pound box. It is still 55 pounds that needs to be moved from place to place, but they are buying it with four bags of ground beef, ground pork, whatever it may be inside the box, of a variety of weights and sizes. The box weighs 55 pounds. The bags do not weigh uniform weights and a school district that has to serve 50,000 meals in the space of 1½ hours has a difficult time trying to handle bags of uneven size and weight to get the end products they want. They buy it more ways. The more prevalent way is the 55-pound case.

Mr. LYNCH. The requirement is 55 pounds. There is no requirement on the bags?

Mr. GIUFFRIDA. No.

Mr. LYNCH. The No. 10 cans are also a requirement of the USDA, that various commodities must be sold to USDA, in 10-pound cans, which is really not for school districts, is it? That was more in the commercial trade; restaurants would buy that.

Mr. GIUFFRIDA. That is right. The defense I have heard from USDA on buying in No. 10 cans is restaurants buy it that way.

In Montgomery County, they serve 55,000 meals in 1½ hours. A restaurant may serve a couple hundred meals in a night and they can afford to open a No. 10 can, but a school district like Montgomery County, can you imagine how many cans of beans they have to open to serve 55,000 meals?

The point is, the USDA specifications do not in all cases reflect the kind of meal service they are being bought to provide food for.

Mr. LYNCH. There have been instances where a surplus has been declared, and yet we bought peanuts overseas from other countries because, in effect, some people felt there was a shortage.

Mr. MARSHBURN. Yes; this is distasteful to the consumer because this type of mistake adds to the price-upward pressures that all consumers, even in the supermarkets, will be affected. So the selection or the statement of a surplus must be a very careful considered statement.

In the instance of the peanuts it could very well have been there was a surplus at the time that the statement was made, but in order to get the system in to work, to get the bids out, to determine what forms, whether it would be meal, peanut butter, or whatever they were going to buy, it may take another 6 months to do this, and in that interim period the market changes dramatically on any commodity, as it did in peanuts. This is a weakness of the present system. There has to be a closer evaluation of the real world surplus as related to the time that the product is actually to be shipped.

Mr. LYNCH. Concerning the procurement requirements of the USDA, the major obstacle that seems to jump out at one from all the testimony, which precludes a great many companies in the country from competing, is the fact that you must have a minimum bid of a railroad carlot. Has that been on the books for some time? Is that a fairly new requirement, or has that been the USDA requirement for years and years?

Mr. MARSHBURN. On orange juice I know it has been many, many years, as long as I have been in the citrus business. I can't speak for the other commodities.

Mr. LYNCH. Following that up, does USDA from time to time review the procurement requirements? In other words, is this an ongoing process, or do they seem to put in requirements that just stay on the books? Have they been getting any better in the last few years?

Mr. Giuffrida. To answer your first question, the USDA does review its requirements from time to time under duress. Having reviewed them under that duress, they do make changes in their specifications—infrequently, in the packaging. More changes in the specifications. Recently, they have developed a commodity program to the point where it has gone from 40 products they are buying well into the hundreds.

If you can envision a cattleman producing a surplus beef roast or a turkey farmer producing a surplus turkey roast and somehow translate that into being surplus removal when you are removing turkey roast from the market, that is where the program has come to now. It has almost become a supermarket as opposed to a surplus removal program.

Mr. Lynch. Have they been improving at all?

Mr. Giuffrida. The improvements have been that they have been to purchase some of the commodities on a State destination basis, which enables a small businessman within a State to think about bidding. Only some of the chicken and poultry products are being bought on a State-destination basis. If more of the USDA products were bought on a State-destination basis, more processors and certainly distributors who are completely closed out of the process now might at least have an option to participate.

Mr. Lynch. Have your members, the ones who deal with the local school districts in the 80 percent side of the program, had problems with contracts being canceled after the contract was let in the school districts? In other words, the school district wants an *x* amount of ground beef, and then the delivery arrives the night before from USDA and the school district calls up and says, "We are sorry; we can't use your ground beef?" Does that happen?

Mr. Marshburn. Dick Funk has to answer to these complaints by the members of the National Frozen Food Association.

Mr. Funk. The answer is yes, very simply that.

Mr. Lynch. Are there any other complaints you would like to put in the record now from your members while we are on this subject?

Mr. Funk. We have covered the major ones, I think, in previous testimony.

Mr. Lynch. Do you think the present system can be saved, or should we completely abolish the present system and go to the open market? The Department of Agriculture will say, "We will improve the process, correct the mistakes that we have made, make improvements here, and we can make improvements there, and then we will have a fine, working system."

Do you think that is the approach that should be taken, or should we simply abolish the system and use the free enterprise system?

Mr. Marshburn. I have some strong feelings on the subject. I think if the system were completely abolished, there would not be one school child in the United States who eats food in the school lunches' he would not miss a meal and in all likelihood the quality of his meal would improve. Now, that is a statement I feel strongly about.

Mr. LYNCH. You think the taxpayer would save money?

Mr. MARSHBURN. I think we have data that would indicate the taxpayer would save money.

Now, the other side of that is a very emotional one. The wheat farmer, or the corn farmer, in the Midwest genuinely believes that the commodity surplus disposal program is of benefit to many. I wouldn't choose to speak in his behalf on the subject.

The National Frozen Food Association believes that the USDA should take one giant step right now and that is through the commodity letter of credit. This gives us the better of two worlds. This allows USDA to get out of the business of distributing foods to the schoolchildren and allows the distribution system that has been set up over the years in the United States to take over that job totally.

It now has somewhere between 50 and 80 percent of that job, anyway, but it would totally take it over. It would also give the commodity groups, the farmers would have concern about surpluses; it would enable them to still participate in the disposal of surplus commodities, by the commodity letter of credit. We think it is the better of two worlds.

We think it is one giant step toward probably the ultimate solution which would be the cash in lieu of commodities or where the USDA provides cash to the schools and allows them to buy wholesome, nutritious foods that are suitable for the children in their specific districts.

Mr. LYNCH. Would that be more open to fraud than the present system of food distribution?

Mr. MARSHBURN. No; there have been some studies made on that, and studies are continuing in that area. I think the controls can be handled in such a way that fraud could be, maybe not completely eliminated, as we know through experience, but it is not completely eliminated today.

When we find commodities that are supposedly delivered to schools being sold to the Boy Scouts in different areas, you know that somebody has allowed that food to get out of a channel of distribution for which it was not intended.

To answer your question, I think, under the commodity letter of credit, necessary controls could be implemented to deter any fraud.

Mr. GIUFFRIDA. Mr. Chairman, may I just add a comment to Mr. Marshburn's response regarding fraud?

The subcommittee might be aware of a program that the Department of Agriculture runs called the WIC program—the women, infants and children's program—through which coupons are distributed to individual consumers throughout the country in the hundreds of thousands and millions, without a price on the coupon. The individual consumer takes that coupon in to his local grocery store. The local grocery store puts the price for the items on the coupon and sends it in and gets paid.

For some reason or another, in the testimony last year by USDA to the Congress, they alleged that a system through which local businessmen and local school business officials handle vouchers or letters of credit was more prone to fraud than a system which has millions of consumers with unpriced specific vouchers taking them to local grocery stores. They alleged that this system with the local school business officials and businessmen was more prone to fraud than the other one.

We have yet to be able to understand how that analogy was drawn. I might also add, the view in at least some committees of the Congress, is that the WIC program is one of the most effective and effectual programs that the Congress has created.

Mr. **Ireland**. Thank you very much.

Mr. Marshburn and gentlemen, thank you for an outstanding presentation.

Mr. **Marshburn**. It has been a pleasure. We appreciate the opportunity to testify.

TESTIMONY OF LEE D. BEHRHORST, PRESIDENT, FOODSERVICE ORGANIZATION OF DISTRIBUTORS, WASHINGTON, D.C.

Mr. **Behrhorst**. Mr. Chairman, I am Lee Behrhorst, president of H.F. Behrhorst & Son, Inc., a family owned, institutional food service distributor located in Bridgeville, Pa. I am appearing here today as the president of the Foodservice Organization of Distributors—FOOD—, a national trade association of food service distributors, food service supply manufacturers, and affiliated institutional buying groups.

I might also add I was a delegate to the White House Conference on Small Business last year, representing also the small business community.

Food service distributors in our association represent a combined annual sales volume of $6 billion, while all classes of members in our organization have annual sales of $25 billion. Nationwide, the food service industry equals 5 percent of the gross national product. Our industry employs 8 million people, 66 percent of which are women, 24 percent of which are teenagers, and our industry employs more minorities than any other industry in the country.

Mr. Chairman, on behalf of the food service distribution industry, I would like to thank you very much for inviting me to be with you here today.

Before exploring those matters with you, however, our industry would like to express our particular gratitude to Senator Symms for his request that the General Accounting Office study the many obvious and hidden costs of donated commodity programs, including their administrative overhead costs, and costs for USDA procurement, transportation, storage, handling, and further processing. We heartily applaud Senator Symms' conclusion that our experience with cash in lieu of commodities, where it has been tried, has shown a significant savings in costs, without sacrificing nutritional values.

In light of Senator Symms' request for the current GAO study, it is appropriate for us to briefly review the history of prior studies of a cash reform for the school lunch program. As many of you know, the idea of a cash program for 100 percent of USDA's school food service dollar has been studied to death.

The GAO studied it earlier in 1977, Dr. Donald Erickson, of Kansas State University, extensively studied it in 1978–79; the Congress forced a then reluctant USDA to study it in eight pilot projects across the Nation in 1978–79; and the State of Kansas, the only State in the Union permitted to operate a 100-percent cash system, has a decade of experience with its advantages.

Discounting the bias of Departments of Agriculture in previous administrations against cash and in favor of commodities and the huge bureaucratic structure which they entail and subsidize, it is significant that these studies and experience with a cash system convincingly show that schools achieve significant savings through cash procurement from local distributors as compared with the Government's commodity program morass.

What is more, school food service managers who are experienced with 100 percent cash prefer it for the flexibility in menu planning and responsiveness to the students' preferences which cash affords—all of which reduces the significant plate waste often experienced with USDA-donated commodities. "Why should we pay for a Government program to throw food away when we can buy what we need when we need it at lower cost at the local level," these food service managers have asked. Our industry asks the same question.

Why, then, are we all still arguing for a cash reform when all those able professors and professionals who have labored in this vineyard before us all saw the light and realized, to paraphrase Congressman Goodling, that if the schools have the intelligence to purchase 80 percent of their requirements with cash, then they certainly can make effective use of the 20 percent now spent, or misspent, as the case may be, on donated commodities?

Ladies and gentlemen, I will be quite frank with you. The stack of studies of this question in the past are testimony to the overwhelming money and power of entrenched commodity groups in preserving programs of uneconomic subsidization for their products. The study-upon-study approach has been successfully employed by commodity groups for 5 years to effectively delay the adoption of a cost-effective, procompetitive cash reform.

But I am pleased to be able to report to you today that the times are now finally changing. It is increasingly recognized by all that the agricultural surpluses of past decades, which provided the justification for surplus commodity removal, are no longer valid as population and food demand increase.

While some lower level USDA program people may persist in their opposition to a 100-percent cash system, in today's economic circumstances, the open mind of Secretary Block to improvements in the operation of USDA programs, and the administration's desire for fiscal responsibility and a cost-effective use of taxpayers' dollars have made the climate ripe for change.

In this regard, our association's board of directors unanimously resolved on May 15 to endorse, in total, President Reagan's program for economic recovery, and, as a logical adjunct to this policy, to strongly urge that the administration support a cash reform of the national school lunch program as a means to achieve additional cost savings for the Government through the elimination of uneconomic subsidization, costly to the American taxpayer and consumer.

In carrying out our board's policy, our industry has contacted 100 key decisionmakers in Government and 1,000 individuals and organizations. In addition, like Senator Symms, we also requested a detailed examination of the costs of the present commodity system and the cost advantages for the Government of a 100-percent cash reform for the school lunch program.

Unlike Senator Symms, however, who, through the prerogatives of office, can call upon the investigative arms of Congress, such as GAO, to examine such matters, our industry could only call upon its powers of persuasion. In doing so, our industry requested Office of Management and Budget Director David Stockman to devote some of his program analysts' time to quantify the governmental cost savings which would be possible under a 100-percent cash system.

I am particularly pleased to be able to report to this subcommittee that, from the response our industry has gotten from OMB, it is very clear that Director Stockman's office is well aware that the cash reform has been studied time and again and is currently being studied through new pilot projects under title III of the 1981 Agricultural Appropriations Act.

Mr. Chairman, members of the subcommittee, while our industry appreciates the current pilot projects, we see no real benefit for the Government or the taxpayer in plowing the same ground over year after year. What is really needed now is a restructuring of the school lunch program through the budgetary process. In this regard, I am very happy to be able to report to this subcommittee that our association has received the following commitment from OMB Director Stockman's offices, and I quote:

> We will also be reviewing the child nutrition programs as we develop the President's 1983 budget proposals. Our review will include not only analysis of the appropriate funding levels but also the design and structure of the various meal subsidy programs. We will, of course, be examining ways to make these programs more efficient and effective. The cash-in-lieu-of-commodities proposal will be looked at in that context.

Mr. Chairman, our industry earnestly requests your strong support, and that of this subcommittee, as well as the support of valuable friends of our industry like Senator Symms, and your colleagues, Congressmen Bill Goodling and William Ford during that OMB examination process.

Our industry is greatly encouraged by the willingness of this administration and the bipartisan forces of change on Capitol Hill to move away from programs of uneconomic subsidization and toward free market solutions, such as utilizing the energies of America's small business community through competitive bidding at the local level, through normal channels of trade, for 100 percent of USDA's school food service dollar.

We hope that all of you will become a part of that process toward a more cost-effective school lunch program.

THE SOCIAL AND ECONOMIC COSTS OF A DUAL DISTRIBUTION SYSTEM

Returning to the first of the two primary areas which I would like to explore with you today, what are the bottom line social and economic costs of our country in maintaining a dual distribution system—one Government and one private—for child nutrition programs? Obviously, in today's climate of economic retrenchment, uneconomic subsidization, and duplication of effort are luxuries which our society can no longer afford. What is a concrete dollar figure which we could give you to represent the needless expenditure of taxpayers' dollars on subsidies and duplication of effort by Government? To be quite frank with you, we don't know that figure. That's why we have asked OMB to quantify it during the budgetary process and why we are particularly pleased that Senator Symms has asked GAO to do the same. We can, however, give you estimates based on past studies.

While the 1977 GAO study indicated a preference in most school districts for cash, it was Prof. Donald Erickson, of Kansas State University, who, to our knowledge, first projected national cost savings based on his analysis of USDA's eight pilot projects. Accounting for inflation, Professor Erickson found that, on the average, food costs in the pilot project districts decreased by 6.5 cents per meal with the schools doing all of their own buying with cash rather than receiving donated commodities. To quote Professor Erickson:

> Projected nationally against the 4.5 billion meals served in the National School Lunch Program, this means that cash in lieu of donated commodities could save hard-pressed school service programs as much as $292 million in food costs * * *.

Like Senator Symms, however, we believe that the savings reported by the pilot projects were low. All of the cost savings listed in his letter to GAO—and the potential savings through the elimination of such costs—were not taken into account by Dr. Erickson, nor were the hidden costs to the taxpayer and consumer of uneconomic subsidization. In addition, the thorough consideration of all costs at the Federal, State, and local level, as requested by Senator Symms, was not undertaken. We believe that the current efforts by GAO and OMB will bring a good idea of the true social and economic costs of a dual distribution system for child nutrition programs to light. How, then, can we best illustrate for the subcommittee today the needless costs occasioned by the Federal Government's donated commodity program for school lunch programs?

We believe that the best service we can perform for the subcommittee today is to focus upon the savings possible under a cash system where we have experience with it. To do this, I would like to take you on a brief tour around the country.

The best place for me to start such a tour is the town I am most familiar with—Bridgeville, Pa. To quote one of the local school food service managers, Ms. Dee Dombrowski, director of South Fayette Township School District:

> The donated commodity system is very expensive to operate. Under this system, the Department of Agriculture pays for the purchase, transportation, and storage of commodities at the destination points until it is properly distributed * * *. An extensive staff is required to implement this system. Expensive as it must be to operate, the donated commodity system * * * negates some of the benefits it is supposed to provide—especially to small districts.

Turning to your home State of Florida, Mr. Chairman, USDA conducted one of its eight pilot projects in the town of Chipley. The results were as follows: Donated commodities were used during the 1977-78 school year, while all cash was used during the 1978-79 school year. Allowing for inflation, there was a cost reduction of 4.4 cents per meal when the school district received cash rather than USDA-donated commodities.

Since Senator Symms was here earlier, let's turn for a moment to the independent school district of Boise City, Idaho, which was also one of USDA's pilot projects. To quote Ms. Judy Stanton, director of food services:

> The Boise District saved $87,000 per year, or 4.6 cents per meal * * * local purchasing enabled our school district to improve the efficiency and effectiveness of the program by advanced planning and control of purchasing, storage, and labor costs. Food was purchased that could best be utilized * * * with existing facilities and equipment. And, most importantly, the nourishment of the students was improved by serving more fresh fruit and vegetables, increased student participation, and decreased plate waste.

Inasmuch as Congressman Weber is a member of this subcommittee, we feel he might appreciate an example of the possible cost savings in the State of Ohio, where the Dayton, Ohio, school system was also a USDA pilot study. Allowing for inflation, Dayton saved 9.4 cents per lunch in real terms with a 100-percent cash system over the donated commodity program. What is more, Dayton school food service supervisor Betty Bender said she prefers cash because it gives more control over menu planning.

Congressman Dreier's home State of California was also the site of a USDA pilot project—although at the other end of the State in Oakland. Professor Erickson reported that, in real terms, Oakland saved 11.4 cents per meal using cash instead of commodities. But listen to what Frances McGlone, director of food services and nutrition education of the Oakland Unified School District had to say about her experiences with a cash system——

> The bottom line is the fact that in one year with the cash program the school district did better financially. Both food and labor costs decreased while the school district was on the cash program. Both food and labor costs have increased now that the district is back on the commodity program.

In addition, as Ms. McGlone revealed, during her experience with a 100-percent cash program, even though average daily attendance in the school district decreased by roughly 5,000, the number of lunches served increased by roughly 3,500. Student participation under commodities of 64 percent increased to 76 percent under cash. As Ms. McGlone sums up:

> In spite of a declining enrollment in our schools, we served more lunches every day. Because of a cash program, we had more flexibility in menu choices and were able to be more responsive to the students' requests.

But let's take our tour to Congressman Skelton's State, Missouri, the Show Me State. The wonderful city of St. Louis, "Gateway to the West," was also the site of a USDA pilot project, where, under a cash system, the city saved 4.7 cents per meal in real terms.

Moving over to Congressman Smith's home State of Iowa, the town of Riceville was also the site of a USDA study of a cash system. Professor Erickson reports that, in real terms, there was a cost reduction of 8.2 cents per meal when the Riceville school lunch program received cash in lieu of donated commodities.

Mr. Chairman, having taken this brief tour of the country, as you can see, school districts which have experience with a cash system achieved significant cost savings in real terms per lunch served. Many of the home States of the members of this subcommittee have experience with the advantages of cash procurement from local distributors as opposed to donated commodities from the Federal Government.

We believe it is valuable for us to have taken such a tour to review some of our country's concrete experiences with the cost savings of a cash procurement system using normal channels of trade. In our view, the States often serve as a laboratory for testing programs and suggested reforms for possible application on the national level. But for those of you who have followed our tour around the country this morning, you will note one significant omission, the entire State of Kansas.

Let's talk about Kansas for a minute. Kansas is the only State in the Nation which has had a 100-percent cash system since 1972—that is nearly a decade of valuable experience with a cash system. Senator Bob Dole spearheaded the effort for that, and our industry believes that Senator Dole knows a good thing when he sees it. We believe that the Kansas experience demonstrates that a cash program:

Eliminates waste and needless administrative overhead;

Fosters a procompetitive environment of bidding by local distributors for the school lunch business; and

Benefits the small business community by providing market opportunities for small businessmen as well as employment.

But don't take our word alone that the Kansas experience demonstrates the superiority of a cash system. James Russo, editor of Food Engineering magazine, has done a little research into the Kansas experience and reports that:

> Very positive results are seen with the cash system in Kansas—so positive, in fact, that Kansas schools reportedly would quit the school lunch program before going back to the commodity system.

Mr. Russo concludes:

> The Kansas experience provides very favorable evidence to change the present system. Cash in lieu of commodities is an idea whose time has come.

We think Kansas has a good thing going and believe that the Kansas experience should be extended, through legislation, to the rest of the country. Where the results have proven so positive—not only in Kansas but also in the districts where cash has been permitted to be tried—there is no reason for continued better treatment of one State and a few select school districts while the rest of the country has to endure the higher costs of Federal donated commodities.

THE INHERENT WASTE AND ABUSE IN THE PRESENT SYSTEM

Turning briefly to the second and last primary area of concern which we would like to explore with you today, please consider for a moment the inherent waste and abuse of donated commodities. We do not wish to dwell on this point since, frankly, many of the examples are extremely distasteful. Please keep in mind that our association's members must continually monitor and assure high quality products for our customers. If our products do not meet contract specifications, they are returned, and we send out products to meet the local food service manager's specific requirements. The Federal Government has no such discipline by free market mechanisms such as the contract. Therefore, the Federal Government can and has gotten away with delivering case upon case of spoiled food, dumping large amounts of unneeded commodities on local school food service directors at unwanted times, and providing items that no student wants to eat and thereby contributing to high plate waste.

We do not want to burden the record with a parade of horribles on this subject since this subcommittee is already well acquainted with them.

For instance, many of you will recall Mr. Bob Mays, of Hurricane, W. Va., one of our association's members who appeared on behalf of Nifda, one of our affiliate institutional buying groups, who told you of the West Virginia high school, which, while constructing a new high jump pit, discovered case upon case of buried Government commodities when they dug up the old pit. Dumped upon them by the Government in unwanted types and amounts, the school buried them in the old pit.

Perhaps the best and most concise recounting of these types of problems with the current commodity program was Congressman Bill Goodling and William Ford's joint letter of April 22, 1980, reporting millions and millions of dollars of this type of waste and abuse of the commodity program—all of which goes unreported by USDA. As the Congressmen observed, this waste takes many forms: boxcars of spoiled turkeys in Chicago; 2.5 million pounds of rat and roach infested flour, macaroni, and potatoes in Louisiana—discovered after the food was served in the lunch program of some schools; 10,000 gallons of USDA peas in Alabama infested with worms—recalled only after they had been served to the school children.

I could go on with this type of waste, but it is getting close to lunchtime.

Another type of waste is shown by an experience which happened to Ms. Dee Dombrowski, a school food service director from my neck of the woods. Her own words tell the story best:

> Donated commodities also present a feast-famine situation. I have been purchasing processed cheese all year. Imagine my dismay when, with the school year more than half over, I am given 65 cases of cheese * * * Our school now has a refrigerator full of processed cheese with little room for anything else * * * This committee * * * will appreciate the fact that it certainly isn't likely that I would purchase 65 cases of cheese at one time.

Incidentally, Mr. Chairman, Ms. Dombrowski has to store her stuff over the summertime in my freezers and coolers in the distribution company, because she doesn't want to lose it if her equipment goes down over the summer. I have to charge for that storage function, also.

Finally, one of the most blatant examples of waste occasioned by donated commodities is shown by the overflowing trash cans of America's school lunchrooms, as Congressmen Ford and Goodling put it. This plate waste problem means that the taxpayers are subsidizing a costly program which is nothing more than a sophisticated labyrinth for throwing a great deal of food away. That is really a crying shame. With a cash program of procurement from local distributors, however, food service managers are able to be responsive to students' preferences through increased flexibility in menu planning. In addition, quality is assured.

As Frances McGlone has observed, student participation goes up with cash and plate waste goes down.

As political leaders, you, the members of this subcommittee, understand the vote very well. As Congressmen Ford and Goodling have observed, the school children "are telling us something. They are voting with their plates. It's about time we listened to them and stopped using them as a disposal * * *."

CONCLUSION

As echoed time and again by our association's members—as well as by food service managers who are experienced with a 100-percent cash system—cash in lieu of commodities is an idea whose time has come.

It gives the schools more for the money allotted to them, and it gives the schools quality control over the products they buy. If a 100-percent cash system were used nationwide, all the schools could buy the right products they need, when they need them, and in the right quantities.

It is procompetitive and stimulates competitive bidding at the local level for USDA's food service dollar. That has to be a healthy development.

In turn, this stimulates local economies and employment and makes full use of the considerable energies of America's small business community. That is what an economic recovery program should be all about.

On behalf of the Foodservice Organization of Distributors, I strongly urge all members of this subcommittee to get on with the business of moving toward a more cost-effective use of the taxpayers' dollars by recommending the adoption of a cash reform for the national school lunch program as in the best interest of American small business.

What is more, in today's climate of significant budgetary cutbacks in child nutrition programs, every dollar in waste, abuse, and overhead saved through the adoption of a cash reform could be used to purchase more food for the children who depend on the program for their nutrition.

Our country no longer needs, nor can afford, the luxury of the uneconomic subsidization of entrenched commodity groups, grown fat and powerful from taxpayer and consumer largesse.

What is needed is the unleashing of the energies of local distributors, an integral part of America's small business community, in the crucible of free market competition. That is the way to a more cost-effective school lunch which will feed more children at lower cost. Our industry hopes that the subcommittee will agree.

Thank you, Mr. Chairman.

Mr. IRELAND. Thank you for a very complete statement. I hope you can be here tomorrow. Rest assured we will ask them some of those questions you have proposed.

Mr. TOPPING. I have no questions, Mr. Chairman. The testimony has been excellent.

Mr. BEHRHORST. I will not be able to be here tomorrow, but I will send Mr. Rhond R. Roth, our director of government relations.

Mr. IRELAND. Thank you very much. We appreciate it.

The committee adjourns until tomorrow at 9:30 a.m.

[Whereupon, at 11:40 a.m., the subcommittee adjourned, to reconvene at 9:30 a.m., Thursday, July 16, 1981.]

USDA'S COMMODITY PROCUREMENT PROCESS

THURSDAY, JULY 16, 1981

House of Representatives,
Subcommittee on Export Opportunities
and Special Small Business Problems,
Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2359-A of the Rayburn House Office Building, Hon. Andy Ireland (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN IRELAND

Mr. **Ireland.** Good morning. Today we hold our final hearing on the role of small business in the commodity procurement programs of the U.S. Department of Agriculture. The Administrator of the Small Business Administration, Mr. Michael Cardenas will be our first witness. He will be followed by witnesses from the focus of our hearings—the Department of Agriculture.

At the end of their appearance, we will invite interested parties in the audience to come forward and make any comments they wish to make and then engage in a dialog with the Department and the subcommittee.

The Department of Agriculture each year spends hundreds of millions of dollars to buy foods for the various programs they oversee. While various programs have food donated directly to them, a majority of the food goes to the national school lunch program. The USDA says 20 percent of the school lunch program consists of donated foods. Others point out that some luncheon entrees consist of 50 percent or over 50 percent of donated foods.

The USDA purchases food either at market prices under surplus removal or price support authority. It is up to the Secretary of Agriculture to declare a surplus. They have their own system of purchasing, processing, storing, distributing, and handling the foods.

In addition to all these USDA expenses—obviously expenses to the taxpayer—the individual States and school districts have to also store, handle, and pay transportation costs. The distribution process appears to be a jungle as handled by the USDA, compared to the typical distribution setup in our free enterprise system.

Late last year various business representatives told our subcommittee that they believed changes were needed at USDA in the commodity area. They believed that if only small business was given a greater role in the procurement process, substantial cost savings could result.

We were told that the school lunch program can be maintained and that we can continue to feed millions of children daily, and yet at the same time cut the budget. This can be done by changing the system, eliminating waste and abuse, and allowing small business a greater share of the system.

We are here today to ascertain whether or not small business has the opportunity to participate and/or fairly compete in the USDA commodity procurement process. From what I have heard so far in our hearings, I question whether small business can. In that regard, I believe because they apparently cannot, there is a lot of inefficiency and waste in the present system. Senator Symms' GAO report released at our hearing yesterday appears to support this contention.

We have a lot of questions on this issue. Let us begin and see if we can find some answers.

As I mentioned we are pleased this morning that the Administrator of the Small Business Administration is here with us. This is his first appearance before our particular subcommittee. It is good to have you with us, sir.

Before you begin your statement I would like to thank you for allowing Mr. Robert F. Clairmont of the advocacy staff to work with the subcommittee staff during the course of these hearings. He has been very helpful and has proven to be one of the most knowledgeable people in the Nation on this issue. We appreciate it. With that introduction we are delighted to have you here.

TESTIMONY OF MICHAEL CARDENAS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY MARSHALL J. PARKER, ACTING CHIEF COUNSEL FOR ADVOCACY

Mr. CARDENAS. Thank you, Mr. Chairman and staff. I am pleased to be here today to discuss the important role of small business in the U.S. Department of Agriculture—USDA—school lunch program. With me today is Marshall J. Parker, acting chief counsel for advocacy, and I might add, a small businessman who ran a milk processing operation in South Carolina for many years.

Our purpose in testifying today is twofold. First, I would like to encourage additional small business participation on the local level by using the cash-in-lieu-of-commodities approach, except in the case of commodities in chronic surplus. Second, we appreciate what USDA has done for small business to date, but we believe that opportunities exist for them to do more, and we will elaborate further on these opportunities.

We would like to first discuss an alternative to the current system that we believe would better serve the small school districts and small businesses which participate in the school lunch commodity program.

We recommend that USDA consider adopting a direct cash subsidy to local schools to allow school systems to purchase commodities from local small businesses, thereby strengthening not only small business, but also local economies. Currently, approximately 80 percent of the transactions involved in the school lunch program are paid for in cash. By placing the remaining 20 percent of the school lunch program on a direct cash subsidy basis, in lieu of commodity purchasing, small business participation would increase. Small processors and distributors would also benefit because the remaining 20 percent of the school lunch programs would pass through small businesses at the local level rather than large corporations.

Two years ago the Congress required that USDA test whether providing the school lunch program with the cash value of commodities rather than the foods themselves would achieve cost economies. We understand that eight school districts representing both large and small, urban and rural, as well as suburban markets were part of the test. According to the Congressional Budget Office, the national cost savings possible to local school districts through the cash-in-lieu-of-commodities approach would be between $165 and $300 million per year.

Second, if the cash-in-lieu approach is not adopted, we firmly believe that additional opportunities to assist the small business community exist through the procurement setaside program and that it should be extended to cover practically all the commodity buys. In my opinion, the result would be the same as the one we expect from the cash-in-lieu approach—greatly increased participation for small business.

We believe that USDA should continue to carry out its role of deciding which commodities are in surplus and which price supported commodities can be effectively used in school lunch programs without waste. It may be appropriate for USDA to supply these commodities through purchases at subsidized rates, but this support should allow the schools themselves to decide what is the best for them to receive these commodities for their use.

In particular, small business participation in these commodity purchase procurements would increase if the large size of the contracts were broken down into smaller awards. Second, greater flexibility in the form of the commodity to be delivered would be of benefit not only to the small businesses seeking to participate in the procurement process, but small school districts as well.

Mr. Chairman, that concludes our testimony; I will be happy to answer any questions you may have.

Mr. IRELAND. Thank you. As you mentioned, Mr. Parker has been in the dairy business. Mr. Parker, would you give us the benefit of your experience with the school lunch program.

Mr. PARKER. It is a privilege to be here with you today and to have a chance to speak out for small business. I have been a small businessman for over 30 years in the milk processing and distribution business in South Carolina. It is a small business. During that time I have sold literally millions of half pints of milk to school districts and have worked with them and I know their programs from that end of it. I would like to reiterate what Mr. Cardenas has said already, that is we are here in behalf of small business. We feel like the cash in lieu of approach, instead of the commodity program, would assure small business of having a share of all of the purchases and procurements made for the lunch program. We feel that on the local level small business would take care of itself through the bid process and through its position geographically to furnish what is needed on a ready basis for the lunch rooms. From my experience I can say that is what is needed.

I might qualify it one step further. Eighty percent of all the purchases the school programs make now are transacted in dollars and are spent locally in the purchase of foods, with only 20 percent coming from donated commodities. I think this in itself is proof the school districts have the intelligence, the capacity, the capability of handling their own procurements and their own foods. They have done it well on the local levels. Certainly it would follow they could do it 100 percent if the suggestion that we made to the Department of Agriculture, that is the cash in lieu of process is followed. This is not only in the interest of small business but it would allow a great deal of flexibility and freedom on the part of each school district to have what they think is best for their children and to store what they might need.

Second, I would like to say as far as the commodity program is concerned that if we keep the same system we now have than we want small business to have a greater share of those commodity purchases. I would like to commend the Agriculture Department for the cooperation they have shown us in many instances in making some setasides. However, there is much left to be done. At the present time 52 percent of the commodities that are purchased by USDA come from small business. By their own admission their goal is 68 percent, so they fall short of their own goal. We would not be satisfied even at that rate. We think that a figure closely approaching 100 percent could be furnished by small business and should be.

Mr. **Ireland**. Thank you. I think in this world that we call Washington, perhaps there are too many decisions being made by people who are not in touch with the real world as you have been. One of the things that we found throughout our testimony was that there is a category of small business that the Department of Agriculture refers to as small business but we find it is really a captive Government small business. It is a slave business almost. Sure they fit all the normal characteristics of small business but they are businesses in a sense setup and specializing in the unusual standards and specifications and such that the USDA sets up. They are not out in the rest of the world competing so they do not bring any innovation to the process. They are set up and specialized, and meet those specifications that keep all the other small businesses from competing. Did you find that to be true?

Mr. **Parker**. Operating as a small business on a rather local situation, that is in a limited area, I would not have run into what you are talking about. However, I am fully familiar with that type of procurement. It is for that reason, Mr. Chairman, we would suggest the Agriculture Department break down these buys on a local level. If they are going to purchase commodities and continue to donate those, if that continues to be the system, then let us get them geographically in areas so that we can have our regular small businessman participate. There are plenty of vendors, small business people who can furnish all the commodities that are furnished by USDA.

Mr. **Ireland**. There is a great deal of activity and a lot of bureaucratic jobs involved in a dual system. We have the world's greatest distribution system in the case of agricultural and food products. Yet our Government has a whole separate competitive system with not so much the goal of supplying nutritious lunches but disposal of commodities. Hence, the words "commodity program." It seems to me—perhaps you would not agree—that we are kidding ourselves and we are kidding the taxpayers. We have gone to a great deal of trouble to set up a separate, very inadequate, wasteful and often abusive system that is not dictated by supply and demand, but to dispose of surplus commodities. Most people have come here and said they have no beef so to speak, with getting rid of surplus commodities but it seems we are adding an extra cost by setting up thousands of jobs in the Department of Agriculture for these people to go out and play market distribution when they are not even good at it. How would you react to say cash in lieu of commodities, and just get rid of that distribution system? If we have surplus commodities that need to be disposed of, get rid of them out front where the public and everybody knows what the cost of getting rid of them is and it would be considerably cheaper than trying to cram down the throats of small children things they do not want. Would that make sense?

Mr. **Parker**. It does and we heartily endorse that philosophy, the cash in lieu of plan. It would eliminate all of the other processes that we are presently going through. In addition it would give that freedom of choice to the local district and we are convinced—again I go back to my main premise, that small business would get to furnish most of those products that are now being donated and come from larger businesses. As I said we do participate in setasides for procurement with the Agriculture Department and for that we are greatly appreciative. However a case in point, Mr. Chairman, and I think it brings to light what you said. As late as January SBA sought a setaside, starting in October, on ground beef patties, which a setaside was denied. We appealed this decision to the Secretary of Agriculture. It became a moot question because they went ahead and bought the beef patties from big business. And small business did not get a chance to furnish those beef patties on the basis of a setaside. Yet small business had furnished the beef patties in preceding years. So there is a lot under the present system that will not get to small business. The cash in lieu of it would solve it all. It would bring it back down to the local small business level.

Mr. **Ireland**. You would not have the subterfuge of setaside and you would not have to play that game.

Mr. **Parker**. Another thing too, if they have a commodity that is in surplus let them price that and let the school district buy from the Agriculture Department or buy from whomever they want.

Mr. **Ireland**. The gentleman from Missouri, Mr. Skelton, do you have a question?

Mr. **Skelton**. I did but I do not think I have it now. Thank you. You asked it.

Mr. **Ireland**. Mr. Topping?

Mr. **Topping**. You covered the point very well.

Mr. **Ireland**. Mr. Cardenas?

Mr. **Cardenas**. If I may add a point. The philosophy expressed today pretty well goes hand in hand with my direction with SBA procurement and USDA contracts that we are out to identify service and product throughout every State to see where these contracts can be made and spread out rather than having them all made in the East or West. It goes hand in hand with that philosophy.

Mr. IRELAND. Gentlemen thank you very much.

Mr. SKELTON. May I ask a question before you go? On the third page of your testimony you indicate that it may be appropriate for USDA to supply those commodities through purchases at subsidized rates but this supports, should allow the schools themselves to decide what is best form for them to receive these commodities for their use. Do you have any guess as to the administrative procedure you would use to implement that? Would you not be eliminating one administrative maze and creating another one in the process?

Mr. CARDENAS. It would be my opinion the school districts themselves, assuming they function properly, that they could best decide what commodity to use in their particular geographic location.

Mr. SKELTON. Do you think it would be that simple?

Mr. CARDENAS. There is no such thing as simple.

Mr. SKELTON. Because you speak about USDA supplying these commodities, these certain ones under the support programs. These commodities through purchases at subsidized rates. Now, that is going to be a complicated thing, is it not?

Mr. PARKER. We have reference to that, sir, in the present situation.

Mr. SKELTON. I do not want you to get your one foot extracted from the tar and stick another foot in it in the process. I am afraid that is what you are talking about doing.

Mr. PARKER. We have reference to at the present time—the form the commodities are received in varies from that which school districts ordinarily purchase. In the past there have been quantities that were not feasible for use in local schools. Schools should have more say in what type of size or package they had. Ordinarily, if they had the cash it would settle the whole question in that they would purchase from commercial channels that deal in standard packaging. This is what we had reference to.

Mr. SKELTON. Thank you so much.

Mr. IRELAND. To the gentleman from Missouri who knows a lot more about agriculture and farming than I do, I would respond because I feel this is part of the position that I outlined. It seems to me that if we are open and aboveboard about the fact we have a surplus that we want to get rid of, that we instead of utilizing the subterfuge of the school lunch program to do it we should run the school lunch program as efficiently as possible, and not have a Federal distribution system that is wasteful. We should be identifying a surplus and not shipping it and hiding it around the country. If we cannot use it in the school system, do not try to cram it into the school system, use it in our Public Law 480 program. Goodness knows 100 percent of it could be used in some fashion in Public Law 480 where there is already a system utilized. I would relate that to see your reaction.

Mr. SKELTON. I do not think Public Law 480 is going to be able to absorb it. You have taken on quite a chore in taking this subject on. I think it is one that should be looked at but I would suggest in looking at this you may want to have some joint hearings with the proper subcommittee with the Agriculture subcommittee because they are going to go hand in hand in the solving of your proposal.

Mr. IRELAND. Cash in lieu of commodities certainly is not going to use up all surplus commodities. Surplus commodities are only about 1 percent of all our commodities anyway.

Mr. LYNCH. It seems to me we have gotten into a discussion of changing the whole system to cash in lieu of commodities or whatever. Our focus is to bring more small business into the program now. This debate on the other issues will take a while. In the testimony we have had it seems to me small business always complains about specifications, regulations, et cetera, but the biggest stumbling block seems to be the Department of Agriculture's requirement that to bid on any item you must be able to provide at least one railroad car for that item. I think that is 80,000 pounds in meat. Do you think we can work together and try to narrow the scope in some instances to just that one particular requirement and work on that? I think the Department of Agriculture will tell us that the reason they have that requirement is because of cost. The more they buy the cheaper they can buy it. I think we have a lot of items on our record that show we can disprove that. Do you feel that is one regulation we can go after?

Mr. PARKER. Yes; we would like to suggest going back to the suggestion we made to the Agriculture Department that the buys be more geographical. It may be cheaper to buy carload lots in Chicago, but to get the product to Florida it might have been cheaper to buy it in smaller procurements and, therefore, cheaper to the Government and the lunch program. We think this is essential. As a matter of fact, breaking it down into smaller geographical buys spread across the country, would increase the share that small business would furnish of these commodities, no question.

Mr. IRELAND. Mr. Dreier?

Mr. DREIER. Thank you, Mr. Chairman. It is nice to be here. I would like to ask a couple of questions. I am curious to know in your opinion if there will be an increase in savings to the USDA by purchasing commodities locally for the nutrition program.

Mr. PARKER. We maintained always that small business is our bag, so to speak sir, can compete with any large business. That the prices for which the Government would pay for the commodities they purchase from small business would be fair and reasonable and, in many instances, cheaper than the prices they pay to a national, large business.

Mr. DREIER. So you think that is the best route?

Mr. PARKER. Yes, sir, we firmly endorse the cash in lieu of approach because we feel small business will certainly get its share. That will approximate an estimate that would far exceed the 68-percent goal that Agriculture now has in the form of setasides.

Mr. DREIER. Is there a cost in not taking that route, is there a cost for storage of commodities in the local areas?

Mr. PARKER. Generally not. Before you came in we mentioned that I have been a small businessman for over 30 years in the milk processing and distribution business and I used a case in point here, from my personal experience. Say I would win a bid to furnish the local school district their milk. I delivered that milk daily to those schools. They had no storage problem whatsoever. I think you will find likewise that the other commodities that were purchased by the school district, not donated but purchased for cash, were delivered on a basis that required almost no storage or very little storage.

Mr. **Dreier**. Are there any examples that you have in the procurement process for elimination of waste that you might want to put in? Again I apologize for not being here and this may have been covered.

Mr. **Parker**. No, sir, no specific examples.

Mr. **Dreier**. Thank you, Mr. Chairman.

Mr. **Ireland**. Gentlemen, thank you very kindly. I appreciate your input. We would like to call Mary Jarratt, and John Ford, and anyone else who is here from the Department of Agriculture.

Ms. Jarratt, welcome.

PANEL CONSISTING OF MARY JARRATT, ASSISTANT SECRETARY OF FOOD AND CONSUMER SERVICES, AND JOHN E. FORD, DEPUTY ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES, ACCOMPANIED BY KEISTER ADAMS, ASCS, EDDIE KIMBRELL, AGRICULTURE MARKETING SERVICE, AND DARREL GRAY, FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

TESTIMONY OF MARY JARRATT, ASSISTANT SECRETARY OF FOOD AND CONSUMER SERVICES, DEPARTMENT OF AGRICULTURE

Ms. **Jarratt**. Thank you, Mr. Chairman. We are happy to be here today.

I would like to introduce to you the gentlemen who accompany me. As you know, the Department of Agriculture has three major agencies which are involved in our commodity activity. That is the Food and Nutrition Service, which operates our feeding programs, and representing that service, Mr. Darrel Gray, who is in charge of our commodity activity. Also we have Mr. Eddie Kimbrell, with Agriculture Marketing Service; that agency deals with our bidding procedure, our specifications. And Mr. Keister Adams, with ASCS. They are basically in charge of our delivery activities to the States. And of course you know John Ford, who is our Deputy Assistant Secretary.

I appreciate the opportunity to come here today and to present the Department's statement on this important issue. As you know, our surplus removal and price support activities are well defined by statute and there is little leeway we have there. The Secretary has discretion in making some determinations, but the statute is very explicit with regard to our responsibility in this area.

While improvement of the nutritional well-being of the Nation's children is part of the Department's mission in providing commodities for the school lunch program, it is matched by an equal mandate to aid American farmers and stabilize farm prices through the purchase of agricultural commodities needing surplus removal or price support.

I want to stress that, in line with this mandate, the Department gives a high priority and strong support to the donated commodities program. The focus of these hearings seems to be the involvement of the Department in its commodity activity in the school lunch program. However, I feel I must point out commodities are important to the Department for our disaster relief activities, for elderly feeding programs and others that are not specifically addressed. With reference to the personnel issue and the people in the Department involved in this activity, it is my best information the Agricultural Marketing Service has approximately 40 people involved in this activity. ASCS has perhaps 35, and our Food and Nutrition Service here at the Federal level and through our seven regional offices has 80 people involved in the activity.

Turning now to the school program, in the year just ended we have supplied about $900 million worth of food to our schools. Among the commodities were fruits, vegetables, poultry, beef, grain, and dairy products. Schools are entitled to a specified level of commodity support, which under current law is about 13½ cents for every meal served in the national school lunch program. In addition, the Department has in recent years provided bonus commodities to schools beyond their level of entitlements. This year, schools received an estimated $350 million in food for the bonus program at little or no cost to themselves. I might add that just last night I returned from the American School Food Service meeting in Atlanta, these are the people who operate our school lunch cafeterias, and there were between 3,000 and 4,000 people there from across the country, and this association is strongly supportive of the Department's activities with regard to commodities and their supplying them to the school lunch program.

All those schools obtain about 20 percent of the food they use from the food distribution program. The remaining 80 percent is purchased locally. However, this 20 percent represents the primary outlet for much of the food acquired under national surplus removal and price support activities.

The process of selecting commodities and arranging for their distribution is a yearly one and begins in the early spring when the Department analyzes what commodities are high on State preference lists and what commodities are expected to be available through surplus removal or price support activities. States then send back rough estimates of what they want and when. Based on this and other data, the Department arranges for withdrawals from inventories or, when appropriate, invites bids from suppliers on the open market.

I wish to emphasize the spring is not the only time we have contacts with the schools with regard to a preference. This is an ongoing activity and we attempt to make modifications to meet their desires as we operate during the year.

Throughout the procurement process and the distribution of commodities to the States, the Department has been—and remains—committed to the active involvement of small business. Indeed, the overwhelming number of vendors from whom the Department makes school lunch commodity purchases are small businesses. I am providing with my testimony a list of all of the vendors with whom the Department does such business. I think that the subcommittee will find this list of interest.

[The computerized list referred to above is on file with the subcommittee.]

Ms. JARRATT. Though not always successful, we are making an active, positive effort to involve small business while trying to satisfy the bulk of State and local school requirements. I wish to emphasize that since I have come to the Department one of the main concerns that I have seen with regard to the school lunch program are the questions and allegations about the commodity program, and with the Secretary's direction I have taken responsibility for trying to coordinate the activities for commodity assistance.

Within the Department we are working on a number of issues that we know are of concern. I must say small business involvement has not been one that we have focused on, because basically we are trying to deal with the issue of a dollar cutback in commodities and how we can make an equitable distribution across the country, but we will be happy to add to our list of concerns for that task force how we might better accommodate the involvement of the small business activity. I do believe as Mr. Skelton suggested earlier perhaps your working with us in this regard might be a faster way to resolve your concerns rather than trying to change the base legislation on which we operate, because I do perceive that would be controversial and it would take a longer period of time if you are looking for a short-term solution.

In further support of our commitment to providing commodities to schools, the Department is also strongly committed to efforts to make program improvements. One major step is to provide technical assistance to the State agencies responsible for the intra-State distribution of our donated foods. You probably know that once the food crosses the State line it is the State's responsibility for the distribution of these commodities.

This responsibility may be under an agricultural function of the State; it may be an educational responsibility; it may be a welfare responsibility. But we have found that the warehousing and storage techniques have left something to be desired. Eight States this year have availed themselves of our technical assistance, and for every State that has done so—Virginia and Idaho being two—we can show substantial dollar savings in their activities. They are quite pleased with the support. We have a consultant for the western part of the country and one for the eastern part of the country, and we do hope to increase the dollar level of technical assistance this year so more States may avail themselves of that opportunity.

As I mentioned, we have developed this triagency task force, informal activity within the Department. We are charged with studying food distribution problems and developing improved procedures wherever possible. Members of the task force are key people from Department agencies whose recommendations will have a high priority for implementation. And you see the primary members of the task force before you right now.

I would like to refer at this point to the press release of April 22, which accompanies your original letter of invitation to the Secretary to appear before this subcommittee. Under the heading, "Some Alleged USDA Procurement Practices," appeared seven allegations of unwise Department commodity procedures. These were listed a–g. Each of those seven allegations is discussed in detail in the Department testimony that has been submitted. Upon close examination of each, none was found to be correct; all are dispelled by the facts.

For example, it was said that carlot bid requirements stifle competition. However, such charges ignore a basic business principle of purchasing—the cheapest acquisition cost is based on the purchase of carlot quantities. Small businesses—as well as larger businesses—are accustomed to bidding in carlot quantities, and it is normal practice for any purchasers to pay more for quantities of less than truck or carlot proportions. The Department is very proud of the fact that the quantities that are purchased come at the cheapest possible per unit cost in terms of acquisition and transportation. In this vein we feel that we are being wise shoppers in the marketplace and stretching available dollars—taxpayer dollars—as far as possible.

I hope that this clears up one of the unfortunate misunderstandings that has been raised, and that the testimony as well as the responses requested by the subcommittee in writing in a June 24, 1981, letter will clear up many of the rest.

I believe that an important part of all of our efforts is communication—in Congress, at the Federal, State, and local levels, and among business—small and large. I hope that we can continue dialogs such as this and in the same spirit of candor and constructiveness.

Finally, as you know, the Department has been mandated by Congress to conduct the pilot testing of the cash-in-lieu legislation, an alternative to commodity distribution. We are involved in the beginning stages of those activities. We have sites mandated in that study, and the eight sites in the former cash study were allowed to continue to participate, and I believe six of those eight sites have chosen to do so.

The study is slated to cost $2 million, and the Department has spent a great deal of time in preplanning for this activity. I would suggest that you give us the opportunity to get the results of this study and then see where we are. It is my feeling—and I am willing to be convinced otherwise—but it is my feeling that it is true that some sites can purchase as reasonably as they can receive commodities from the Department of Agriculture. However, it is my strong belief that a lot of small schools cannot handle this activity and come out as well as they are with the Department purchasing on their behalf.

I am willing to be convinced otherwise, and I think the results of the study will give us much insight into this, but in talking with the school food service personnel I find some schools feel they can handle this activity locally, and some feel they cannot do so. A lot of schools build their programs around what USDA is giving them. They supplement that 20 percent.

Again we wish to thank you for the opportunity to appear here, and I would like for Deputy Assistant Secretary Ford to add a few comments at this time, and we will be happy to respond to your questions.

TESTIMONY OF JOHN E. FORD, DEPUTY ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICE, USDA

Mr. FORD. Mr. Chairman, thank you very much. It is a pleasure to appear before you. Assistant Secretary McMillan is in Mexico on the Mediterranean fruit fly issue this morning and some other USDA issues, and I apologize for his absence. We do feel this is a very important issue, and we appreciate the interest that you have from your perspective on the aspect of small business participation in this program.

In the 5 months I have been with the Department I perhaps have gotten a special interest and attachment to this issue, and I am very impressed with the Federal employees, that service this program, limited as they are, as Assistant Secretary Jarratt said awhile ago, to something like 35 people in the Agricultural Marketing Service. The Department is organizing so fast and furious that Mr. Kimbrell is now Associate Deputy Administrator in the Agricultural Marketing Service, and the entire commodity procurement, processing, and purchasing program is now in that area under Assistant Secretary McMillan.

To delineate one more time and to make it more clear for the purpose of this record, the Agricultural Stabilization and Conservation Service is responsible for acquiring the price-supported commodities such as grain and dairy products. The nonprice-supported products such as fruits, vegetables, poultry, and beef are under the Agricultural Marketing Service, a restructured organization. And USDA programs are conditioned on the offer and acceptance basis, with contracts awarded to the low bidders.

In the small business interest that was expressed here yesterday, and this morning, USDA is committed to a very active participation with small businesses in the food purchasing programs. In accordance with that objective USDA utilizes a setaside program which this morning was accused of being too small, and perhaps that is true. It is an ongoing study and evolving process with USDA.

Also, contracts awarded in excess of $500,000 include a clause requiring the large businesses involved in those contracts to develop subcontracting plans and establish goals which afford small businesses owned by those socially and economically disadvantaged a maximum opportunity to participate as subcontractors.

Although once our products are delivered to the States they are no longer under Federal control, the Department strongly urges the States involved to utilize small businesses in all aspects of storing, distributing, and further processing. Experience has indicated to us small businesses have competed effectively with their larger counterparts for USDA food purchase contracts.

As the testimony submitted to your subcommittee states, during the first three quarters of the current fiscal year small businesses were awarded contracts with a total value of $295 million, which represents 55 percent of the value of all domestic food purchase contracts awarded by USDA in the first three quarters.

I would like to reemphasize what Assistant Secretary Jarratt stated a moment ago. The Department employees seated before you this morning have I believe a fiduciary obligation to the taxpayers, be they State taxpayers or Federal taxpayers, to produce the most possible food for the least possible price. That fiduciary obligation does require purchasing in certain aspects and in certain ways to achieve that end. There may be times when that becomes inconsistent with the particular needs of a particular small business. But that statutory obligation, fiduciary obligation, and our attempt to continue to broaden the involvement of small business entities in our purchasing process I think viewed in total does place the Department's program in a favorable light.

With regard to the policy changes currently under consideration for the commodity distribution program, we expect that the reduction in funding currently pending in the Congress will significantly influence the level of our purchases and the types of products we buy. To the extent possible, however, we intend to maintain our capability to provide assistance to producers whose crops are in surplus. To accomplish this, we expect to be giving greater attention to the relative supply-price conditions for the various products available for purchase. In addition, we anticipate that there will be a shift to items which require a minimum of processing so that we can obtain maximum quantity for each food dollar expended. Priority will be given to providing assistance to agricultural producers. This approach is clearly consistent with the intent of the legislation which provides the bulk of the funds that support our purchases.

You did submit both with your letter and your press release a number of specific questions. Those have been addressed in the submission to your subcommittee, and we have additional answers and we can provide you that today either orally or in writing.

[Mr. Ford's prepared statement follows:]

PREPARED STATEMENT OF JOHN E. FORD, DEPUTY ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICE, USDA

Mr. Chairman, I also appreciate the opportunity to be here today to discuss our commodity procurement programs. My brief remarks will highlight some of the points made in our formal statement concerning USDA food procurement policies and procedures. Foods donated for use in school lunch and other eligible feeding programs are acquired by USDA under various statutes, including Section 32 of the Act of August 24, 1935, Section 416 of the Agricultural Act of 1949, and Section 6 of the National School Lunch Act. Primarily under these authorities, we expect that approximately $1 billion worth of food will be purchased for donation to all eligible domestic feeding programs during the current fiscal year.

In terms of dollar value, approximately two-thirds of the foods distributed in recent years have been items such as fruits, vegetables, poultry and beef products, which are brought under what we commonly refer to as Section 32 and Section 6 authorities. The remaining third of the foods which the Department distributes are commodities acquired under price support programs such as those for dairy and grain products. Personnel of the Agricultural Stabilization and Conservation Service are responsible for acquiring price-supporting commodities, such as grain and dairy products. Purchases of non-price supported items—fruits, vegetables, poultry and beef products—are made by the Agricultural Marketing Service—an Agency which is within the responsibility of the Assistant Secretary for Marketing and Inspection Services.

USDA purchase programs are conducted on an offer and acceptance basis with contracts awarded to the low bidders. Offers are sought by public invitation from all firms which meet the basic eligibility requirements. In the interest of achieving maximum competition for its food purchase contracts, USDA is constantly striving to expand its procurement base, especially within the small business sector.

As Assistant Secretary Jarratt has indicated, USDA is committed to the active participation of small businesses in its food purchasing programs. In accordance with that objective, USDA sets aside some of the commodities it procures exclusively for small business bidding and has developed a unique program to permit participation by eligible minority-owned firms in certain of our competitive programs. Further, contracts awarded in excess of $500,000 include a clause requiring that large businesses develop subcontracting plans and establish goals which afford small businesses, and particularly small businesses owned by those socially and economically disadvantaged, a maximum opportunity to participate as subcontractors. Although once our products are delivered to the States they are no longer under Federal control, the Department strongly urges States to utilize small businesses in all aspects of storing, distributing, and further processing.

Experience indicates that small business compete very effectively with their larger counterparts for USDA food purchase contracts. During the first three quarters of the current fiscal year, for example, small businesses were awarded contracts with a total value of $295 million. This represented about 55 percent of the value of all domestic food purchase contracts awarded by USDA.

To insure maximum competition for contracts, the Department also strives to purchase those items for which there is considerable production capacity within the industry. In developing food specifications, every effort is made to balance product quality and packaging considerations against potential costs. USDA personnel are continuously reviewing our food purchase specifications to insure that they remain current with developments in food processing and with changing consumer preferences. Most of our food specifications are reviewed and revised on an annual basis, but may be modified any time a change is warranted. We encourage comments, suggestions and constructive criticism of our food purchase specifications. All input received is directed to and thoroughly evaluated by our specification specialists.

With regard to policy changes currently under consideration for the commodity distribution program, we expect that the reduction in funding currently pending in the Congress will significantly influence the level of our purchases and the types of products we buy. To the extent possible, however, we intend to maintain our capability to provide assistance to producers whose crops are in surplus. To accomplish this, we expect to be giving greater attention to the relative supply-price conditions for the various products available for purchase. In addition, we anticipate that there will be a shift to items which require a minimum of processing so that we can obtain maximum quantity for each food dollar expended. Priority will be given to providing assistance to agricultural producers. This approach is clearly consistent with the intent of the legislation which provides the bulk of the funds that support our purchases.

Mr. IRELAND. Thank you, Mr. Ford. First of all beginning with the fiduciary responsibility that you alluded to. It concerns me when we talk about that fiduciary responsibility that we have this record and years of testimony before the Labor and Education Committee about the inadequacies of this additional distribution system. It just is unbelievable. Certainly, Ms. Jarratt and you, Mr. Ford, were not here at the time—it is not an individual accusation I am making. It is an issue that there is a distribution system out there run by the bureaucracy of the USDA that does not seem to have the advantages of the free market system and thus causes all kinds of inefficiencies, waste, and abuse. In alluding to the fiduciary part of it and the system I would refer to Ms. Jarratt's comments in the testimony that you can buy things cheaper by carload lot and certainly that is a principle of marketing. But what the person in this unreal economic world of a bureaucracy does not realize is that that is not the only cost. Sure, buy it in carload lot but then you have all those other costs involved up and down the line that involve additional storage, some of which are at the local level and some under the Federal bureaucracy.

Why purchase in quantity food people cannot use? The price of food locally is almost uniformly cheaper and this is what all the test experiments have shown. The system is out there. What makes it work is competition. As for the food service people, some of these people have been in here and testified, they are between a rock and a hard place. If they come out and say what they think they are afraid in their particular own hometown distribution system that they will be penalized. It is a fear operation. In addition to that worrying the small school district has already proven in 80 percent of what they buy that they are plenty capable of doing this. Whether it is a large school system, or a small school system, they are already doing it. Eighty percent of it themselves. So I do not think you have to worry about these people needing the paternalistic hand of the Federal Government to help them with the other 20 percent. I am expressing to you the kind of things that the committee has heard.

In that regard, something that has concerned me is section 32. In your testimony under the provisions $900 million worth of food is being provided in the current years. Under section 32 I understand $2.5 billion is generated in the 32 fund? Is that right?

Mr. KIMBRELL. Yes, sir.

Mr. IRELAND. $900 million worth of food is provided for the school. What happens to the $1.6 billion?

Mr. GRAY. In the $1.6 billion is what number?

Mr. IRELAND. Under section 32 there is generated $2.5 billion. Now in your testimony you are saying $900 million worth of food is being provided to schools in the current year. And $900 million from $2.5 billion is $1.6 billion.

Mr. GRAY. The $900 million is not all section 32. There are some other sources of funding in that amount.

Mr. IRELAND. Then it is more than $1.6 billion. Where does that go?

Mr. KIMBRELL. I am probably not the person to answer that, Mr. Chairman, but I can give you an answer. Mr. Chairman, as you know, we get the section 32 funds en masse provided to the Secretary of Agriculture supposedly to support several programs. That comes as you have indicated to about $2.5 billion. Of that quantity a portion of it is used to fund several specific statutes, for example the portion used to provide commodities under section 32 which comes in the neighborhood of $300 to $400 million. It is also used to fund the section 6 portion to a certain extent of the commodity purchase activities and other FNS child nutrition programs. A portion is also transferred to the Agricultural Stabilization and Conservation Service to take care of their cost in terms of the support programs they provide. The accounting, bookkeeping, the transportation costs, arranging those costs, the transportation, those kinds of things. To sum up, Mr. Chairman, the total of the $2.5 billion is used not only for the commodity programs as you well know, but to fund several of the other nutrition programs of the Food and Nutrition Service such as the WIC program.

Mr. IRELAND. If we do not have the expertise to answer I hope we can get it. Does any of it go and if so how much to the school lunch program under section 32? Does it go directly in the form of cash?

Mr. GRAY. We do receive in the Food and Nutrition Service from section 32 funds abut $1.5 billion for cash reimbursement for the school lunch program.

Mr. IRELAND. So there is $1.5 billion.

Mr. GRAY. Yes.

Mr. IRELAND. So that is considerably more than the $900 million?

Mr. GRAY. Certainly.

Mr. **Ireland**. This does not disturb you at all letting the people spend all that money?

Mr. **Gray**. No.

Mr. **Ireland**. Could we have that breakdown for the record?

Ms. **Jarratt**. Yes.

Mr. **Ireland**. We have had a lot of questions about it.

Senator Symms asked the GAO to look at USDA's program. Last year during the debate on commodity legislation of credit proposals those of us who supported the alternative alleged the cost to USDA of the donated commodity program was at least $55 million. USDA maintains these costs were $30 million, now a GAO report has clarified the issue and states $55.5 million for the cost of the program and this number does not even include some of the transportation and handling costs which are built into USDA purchase price for certain chicken and turkey products.

Does that surprise anybody in the Department?

Mr. **Gray**. The fact it is $55 million?

Mr. **Ireland**. The fact that the USDA was all along testifying that their costs were only $30 million and everybody else thought they were nearly double and GAO found out they are nearly double. Is that a surprise?

Mr. **Gray**. It is a surprise to me that GAO has arrived at that high a number. I just got this last night so we have not had a chance to compare the information but one problem that we had in sorting the number out initially was the fact we have the needy program on Indian reservations and the elderly feeding program—all of our organizations are buying food for these outlets as well as transporting the food and covering administrative overhead. It is difficult to single out which costs it applies to. But the testimony in March of last year was right. We went through the process and we came up with $30 million. But we would be happy to go back and compare notes with GAO and report to the committee our findings on that.

Mr. **Ireland**. If it would be acceptable to you, why do we not outline some questions to you that we will submit to you related to our concerns in the GAO report.

Ms. **Jarratt**. We need to look at their methodology in analyzing our program. In some of the Indian programs we have administrative costs. I do not know what costs they are looking at.

Mr. **Ireland**. I think that has already been addressed by GAO.

Ms. **Jarratt**. The problem is we do not know. We cannot tell whether their figure and our figure is compatible.

Mr. **Ireland**. I think you will find that the Department of Agriculture has stated the $30 million figure and said what they consider in it.

Mr. **Ford**. To further answer that question in reading the report which is very interesting—I would not begin to take exception to your characterization of it but perhaps in casting slightly different light on the way it is framed. I think the report points out a very interesting aspect in the estimated cost to administer commodity donations in connection with that total figure. I might note how much variation there is in the transportation and warehousing between the various States and what some States are assigning as their cost and what some States are not. These costs are associated with local purchases and transportation and warehousing. It is one of the hardest factors to come out with on an accounting level. The States appear from this chart submitted yesterday to vary significantly. For example, Colorado is zero in transportation. California is almost $3 million.

Mr. **Ireland**. We have got to be up front and honest about the program in order to make a good decision and that has not been taking place over the years in setting this up.

Mr. **Ford**. Eighty-nine percent of the people responding to State and school district officials said they were generally satisfied with the program and perhaps some of that inefficiency could be a subjective term that is built in with figures that are derived from State figures which themselves could be somewhat irresponsible. It is hard to come up with what is efficient or inefficient.

Mr. **Ireland**. If you use the existing free enterprise system you would not have to worry about that. Right?

Mr. **Ford**. What is more free enterprise than a bid system where you let out your commodity for bid?

Mr. **Ireland**. But, you have a whole government establishment of people, warehouses, and everything. Yes; you bid but they still have to do all kinds of other handling. Our record is just covered with additional reprocessing, all kinds of inefficiencies, and specifications that do not allow the innovation that is going on in the real world market out there. Buying in carload lots, makes a good example. You buy in carload lots. It might be cheaper where you buy the carload lot but if that car has to go from Chicago to Texas you are adding a cost. And all of that, the free enterprise aspect and the distribution system that is already out there, when the guy that has done it locally compares the overall cost it would be cheaper buying it in Texas. The bid is a buzz word when it is taken out of context, because then there are added costs up and down the line. There is no question.

Mr. **Ford**. Perhaps one of the problems faced by USDA and your committee, Mr. Chairman, is the fact that we—by the way fiduciary obligation is not a buzz word for me or I do not think anyone at this table and certainly not for any congressional committee interested in a service to its citizens—it is a direct obligation. I do not think our Department is impressed with the quality or the scope of comparative figures that have been done on this issue yet. This study that was mandated by the appropriations last year, 1981 fiscal year budget, is an extensive study. It is a wide study. It should be very impressive on what conclusions it comes to. It is unfortunately 3 years away from coming to those conclusions but the previous FNS study has not been impressive in its scope although it is starting up in 1982 I believe. It is not impressive in its scope. I think we are short on good facts as far as what fiduciary obligation we follow best. I do not believe at this point—at least our office does not feel that—we are costing instead of saving the State school systems money on this program. Apparently, from the AO report, they seem to be relatively happy with it also.

Mr. **Ireland**. I am not so sure I would agree with that. I think the thing that disturbs me is that you have had a 10-year experience in Kansas and you had pilot programs. It is disturbing to me as not just a Congressman but also a taxpayer that we could have the demonstrated success of the pilot programs and they all save money and it is repeated and we are going to expand it. Yet, we find ourselves with a Department of this Government defending a status quo, defending something to be defending it when we get testimony after testimony of its inadequacies. Instead we are calling for more studies and more studies all the way to 1984.

Mr. **Ford**. Your special counsel a moment ago said the direction of this hearing was how to increase the effectiveness of small business purchasing in the existing system. Is that our direction or are we talking about the cash in lieu of commodity program? The Department has a definite position on that. That is to wait for this study.

Mr. **Ireland**. Small business is already participating in the 80 percent and by your own testimony they are perfectly capable of doing the distribution. Why not do it for all of it?

Mr. **Ford**. We continue to forget the statutory obligation that the Department has. Statutory obligation is the surplus removal aspect of the agricultural producers in the country.

Mr. **Ireland**. Your statutory obligation is not the surplus user, it is surplus removal but it does not say surplus removal by cramming it into the school lunch program. It does not say that. It says surplus removal. I am willing to agree you have an obligation to surplus removal. I am totally in favor of it. It maintains the agricultural system in this country. But there is no statutory provision that it has to be done by the commodity program in the school lunch program. If that were so you could not even carry out the cash in lieu of experiments that you have going on now.

Ms. **Jarratt**. We are open to suggestions for other outlets.

Mr. **Ireland**. My suggestion then is you can do it without legislation. You can say everything can be cash in lieu. Why do you not do that? You have all kinds of indications that it is worthwhile and it certainly fulfills the obligation you just told me about. Right?

Mr. **Ford**. I am not sure if I was a school system administrator that I would want a cash in lieu.

Mr. **Ireland**. Why is that?

Mr. **Ford**. The budget cutting process would be efficient and easy on direct cash in lieu of commodities. As it is now there is a definite agricultural interest involved which is nutritional interest. We seem to have acceptance. The highest degree of dissatisfaction was on the aspect of areas we can improve in and which we have talked about this morning. The main problems they found were the uncertainties of delivery schedules and timing of deliveries and small business participation which we laid out in our testimony.

Mr. **Ireland**. But you would not even have to worry about the Mickey Mouse world of setasides and all the bureaucratic kinds of decisions that go into that if it were totally cash in lieu of commodities. On the 80 percent you do not have to worry about that. For 100 percent you would not have to worry about it. Everybody has said we are not criticizing the requirement of surplus disposal but let us have surplus disposal out there and own up to what it is. Let us not create a distribution system that is unwieldly, inefficient and by GAO estimates a cost of $300 million a year in overall additional cost to the people of this country just to do it.

Mr. **Ford**. First the 80 percent versus 20 percent—that money that is directly spent by the States is used for both small and large business purchases. Of the 20 percent, 55 percent of that is bought from small business firms. I think it is a fair question to ask at what point will small business interests be satisfied with the role of the Department in expanding their participation in this very valid program and at what point that expanded participation be counterproductive to the total cost savings that are trying to be achieved in large purchases. Any economist would agree that there has to be two lines that would cross at some point. One hundred percent participation on SBA defined small business would make some of the people testifying before your committee happy but are we doing a service to the agricultural producer under that obligation?

Mr. **Ireland**. As for the carload lot you may save something in the large purchase category, but you lose so much in this archaic distribution system that the bottom line cost in study after study is almost $300 million of additional cost that is over and above what it could be just dealing directly with the established distribution system of this country. So, if you isolate this and say we are making large purchases that is not the whole story. Because you might save there but you lose so much in these other expenses that it is inefficient.

Ms. **Jarratt**. I would like to point out since you mentioned Kansas, several weeks ago we had a disaster declaration in Kansas where commodity feeding was needed. Kansas is a cash out State and there were no commodities within the State. Fortunately, with the aid of the Red Cross we were able to get commodities in there and we did not have severe hardship but that is a serious concern for the Department. If we completely remove ourselves from commodity activities what does this country do in disaster situations?

Mr. **Ireland**. I did not say we should be totally out of the commodity business in the distribution of that surplus. What I am saying is the part of the distribution of the surplus that is involved with the school systems in the United States is inefficient and it is tremendously costly. Now, that is a cost and it is a school lunch program cost we are talking about. That does not mean that surplus commodities are not an important thing for this country and that having them for emergencies is not important. But that is not what we are talking about. We are talking about a system setup that duplicates a system that is already out there. Now that does not mean that that surplus should not be handled and it should not be handled for emergencies.

Mr. **Gray**. It would take a change in legislation on the commodities that we give to schools. Now in the National School Lunch Act they are entitled to a set rate of commodities which we purchase for them through these other authorities. The law says we have to provide 75 percent of that entitlement in the form of commodities so it would take a legislative change. It is not that we are making the purchase first and then forcing it on schools. We are making the purchases under the appropriate laws to meet another law which says they should go into schools, the entitlement being their fair share of it. It is a very complex issue, for example like the dairy surplus that we incur now where we have been able to offer that to schools. It is a free choice. We have some surplus dairy products, and ask the States, "do you want them?" They ordered $300 million this year, strictly from their choice to help subsidize their meal service.

Mr. **Ford**. That is the concern. Coming from a State that is important to American agriculture and your Eighth District, what concerns me is that as over the years agricultural producers the people that produce the food and fiber of this country have lost more and more control over the fate of their commodities. If this also goes by the wayside eventually somewhere down the line then, sure, I heard the gentleman this morning say the States can buy the same commodities; if they do not like the products they will not buy them. That is a fine approach, but when you get down to it, if the Federal Government loses control of national agricultural effort which is of tremendous importance to me from my farming background, then, $300 million—if indeed it exists and I challenge that until we get better information—but you speak with the power of your convictions and I think the area we are talking about goes back again to what your counsel said before. Ways that we can work with this committee, subcommittee to increase not only the effectiveness and the efficiencies of our program, to increase the participation of small business activities and participants in the process—that is on one hand—on the other hand is the cash-in-lieu-of-commodities approach which the Department at this point has a rather definite program on. In the first, I think we can work together very effectively. As I say I have had an interest in this area from the first day in this job and I think that there is already efficiencies that are showing up in this program. There is no question but what when you are spending these kinds of millions of dollars servicing millions of people there are going to be horror stories continually. The question is how to continue to minimize those.

Mr. **Ireland**. I totally agree that we need to have a handle on the surplus production of this country as you say.

Mr. **Ford**. A Federal handle.

Mr. **Ireland**. At the same, the whole thrust of the USDA is that this engine called distribution to the school lunch program is efficient. The only thing USDA can do is rationalize over and over, delay studies to 1984 and everything else, and talk about small business setasides which are just adding to the bureaucracy of the whole thing. Why not think in terms of getting rid of that whole extra distribution system and let what is out there do that kind of thing. I will guarantee you it is a food program. The school districts are going to be buying food in the United States. Let them buy what is there. We have tremendous amounts of waste because we are giving the kids things they will not eat. Why not a spark of thinking in the Department and have someone say: "Maybe it is the wrong way to do it."

The point is that there is a distribution system out there that can do it better than the bureaucracy can do it and it should be given a chance to do the whole thing. Why not let it do it. And then whatever is a surplus leftover find other ways, imaginative ways to do it.

Ms. **Jarratt**. I hope you are not suggesting that it is just a lack of concern or sitting back to wait on the Department's concern. It is my recollection that the Education and Labor Committee last year refused to vote out the Goodling bill, so I do not believe it is a consensus in Congress as to how best we should deal.

Mr. **Ireland**. I think that consensus has been responding to this attitude of the Department of Agriculture of, "We are going to protect this program come hell or high water." Last time it got to an 18-18 vote and even Bill Ford came before this committee and he has been one of your staunchest supporters, over the years. Now he is on the other side. That is happening. What I am saying, an enlightened Department of Agriculture would be in here saying, "Hey, we have an inefficient system here, let's try to do something about it." That does not work in the bureaucracy. That is why the American people are upset.

Mr. **Ford**. If we are doggedly defending the status quo this is the last time we will be here. I hardly think the Department of Agriculture is casting that mode today.

Mr. **Ireland**. The tone of the testimony from the two of you I think reflects that and I think it is healthy. In my view and my personal view the tone of your testimony is that there are some problems here. This is the way we see it. Now we want to work together.

Do you have any other comments in that general area? I have a list of questions I will let my chief of staff ask.

Mr. **Lynch**. Where did you get the commodities to help the State of Kansas?

Ms. **Jarratt**. I believe some came from Ohio. I am not sure which States contributed to that.

Mr. **Lynch**. At the moment the State of Oklahoma has a 252 month supply of canned sweet potatoes. The same State has a 159 month supply of canned pears. The list goes on. We have been talking about Senator Symms' GAO report. I assume you are familiar with the GAO report of July 9. If we want specifics on where we need help here is one example. I do not think GAO can be attacked because as I understand it they go in and do random sampling of school district pilot programs—one California school district in 1 year refused the following commodities—68 percent of ketchup, 72 percent of cranberry sauce, 63 percent of potatoes, 61 percent of canned tomatoes, 59 percent of beans. It goes on. It is the same story in Pennsylvania. Eighty-nine percent of canned tomato paste refused. Another problem area. GAO says the Department of Agriculture procures most commodities except poultry and grain products on only an f.o.b. origin basis. Other Government agencies such as the Veterans' Administration procure the same type of commodities with origin and delivery point on an f.o.b. destination basis at a savings. GAO believes the Department of Agriculture should consider increased use of f.o.b. destination procurement. Do you think the Department of Agriculture will?

Mr. **Gray**. I can address the first part of that. I met with GAO and we talked about their findings and we questioned the methodology that they used. I do not want to be in a position of defending the status quo, but what happens in a situation like that, when they have this excessive inventory is a misunderstood issue. Someone will go in and ask a school official how much they used last year in sweet potatoes—maybe they served it five times—this year we buy more sweet potatoes and they convert that into a usage rate that has no relationship to need as far as how many times they can serve that. It overstates it tremendously. We talked about it and GAO decided they would enter our statement in the record and their's too. I think the key to the whole process is we hear talk about jamming things down their throats and food they cannot use. Our process is such that we ask States what they want. We get ready to make a purchase of sweet potatoes and we have a target amount we want to buy which we think will help the market. We contact the State agencies and ask how much they can use. If they want one-half of what we normally would allocate we give them the one-half. So what you can get into is a local school who may receive something from the State agency that maybe they did not ask for. What I am saying is we do not purchase something and send it to a State unless they want it.

Mr. LYNCH. Using the Kansas example, Kansas calls the Department of Agriculture and says we have a problem, we need some commodities. Do you flip on your computer and look at the States closest to save transportation costs and see what they have stored that people can use and can send to them? Is the system that efficient or is it not?

Mr. GRAY. You are talking about a rare case. You have one State that does not have commodities. What would happen in a situation like that is they would call our regional office and inform them of the disaster, and ask for food.

Mr. LYNCH. In other words that is a rare case, but if you wanted to pinpoint where things are stored, if someone came to you and said, "There is an outrageous situation in Massachusetts, do you know what they have," could you say to the person yes, we do or would your answer be no, our system cannot tell that?

Mr. GRAY. We have an annual inventory level we get from States. We could not tell you today what one individual State would have as far as inventory without a call to that State. That is in a way entirely proper, it is the States' responsibility to run their own program.

Mr. IRELAND. Let me ask you about an activity called off-the-shelf purchasing. Some years ago and I am afraid I can't tell you how many years ago, USDA was directed to buy off the shelf commercial quality products. It has not been done. It is just not done. Instead of off the shelf USDA comes up with these specifications that oftentimes leads to what is a substantial amount of the abuse that we find.

That is where you get the 55-pound hunk of hamburger that nobody can use when the rest of the world buys it in tubes of 15 pounds.

Why does this system categorically stay away from buying in off-the-shelf commercial sizes?

Mr. KIMBRELL. Mr. Chairman, you bring up a point that I think the administration is going to look into very deeply. It is an area of great concern within the whole Government procurement system.

Recently, the Office of Federal Procurement Policy, for example, which was established by Congress to look into specific problems related to specifications, asked that the agencies of Government that do procure food get together and see if they could not develop a better system of specification activity so that we could get closer to what you call off-the-shelf buying.

I think, Mr. Chairman, that there is no desire on anybody's part for Government to buy off the shelf. Rather, what I think would be very desirable is to buy using the same production techniques that produce the on-the-shelf items.

The problem with off-the-shelf buying, of course, comes down to the Government's support of brand names which you would do if you got into the off-the-shelf buying capability, whereas, if you buy according to the production techniques that are used to produce those items, then I think you would be making great progress.

We have within the Department of Agriculture, Mr. Chairman, addressed this issue, and recently Congress approved funds for us to manage a Federal specification system for all Government buying.

As you know, probably the DOD spends the greatest amount of money on food products followed by the Department of Agriculture and then the Veterans' Administration.

We are working to bring about the use of the same specifications within Government, and where possible what we call commercial items descriptions which in fact could be off-the-shelf items.

We are working toward that. We can probably speed up the process, Mr. Chairman, but one of the problems you get into with that is what is the quality level that the public expects in terms of the products going to schoolchildren? We almost have to establish a minimum quality level and sometimes it is not as low as that that is available on the commercial shelves.

Mr. IRELAND. Let me interject. We even had testimony that the Department of Agriculture is buying some products, speaking of quality, that the Department of Defense refuses to buy because of the quality and you are buying them and shipping them to schoolchildren.

In other words, there is no indication that the 20 percent that you are talking about is of a higher quality than what the schools purchase in the other 80 percent or what the kids get at McDonald's.

Mr. KIMBRELL. I won't argue that but I think we know what quality we buy when we buy Government distributed products.

Mr. IRELAND. That is where the problem is. We have gotten things that people open and would not serve.

Mr. KIMBRELL. On rare occasions I think you will find that the quality control mechanism in the private enterprise system also breaks down. Occasionally, it does in the products we buy, Mr. Chairman, so we do not get the quality that we have contracted for. On the other hand, we do because of the quantity that we buy, have the means to inspect the product that is going to the schools.

I think that is one of the advantages that we have in terms of carlot buying.

Mr. IRELAND. In private enterprise there is USDA inspection in everything from meat on up and down the line. You don't have wildcat canners around.

Mr. KIMBRELL. From the standpoint of wholesomeness you are right, but there are economic factors in terms of quality that are not taken into account by a wholesome inspection system and those are what is being addressed within specifications.

Mr. **Ireland**. You are telling me it is necessary to have additional quality control system over and above what was required nationwide?

Mr. **Kimbrell**. For wholesomeness; yes, sir.

Mr. **Ireland**. And then we get all these horror stories of the products that are going out. I think it would be well for you to look into the Department of Defense refusing to buy, what was it, boned poultry, that they wouldn't serve and USDA distributing it like it is going out of style.

There is a credibility gap that is nationwide.

Mr. **Kimbrell**. Mr. Chairman, I don't want to be argumentative at all but I would like to see if I could explain that because canned boned chicken is a surplus commodity. It is a perfectly edible, wholesome commodity and DOD has chosen not to use it in terms of the meals that are being served under their system.

On the other hand, the Department of Agriculture has purchased canned boned chicken and distributes it to the schools. It is not the most desirable product and we have been examining better ways of buying to make it more acceptable to the schools because it is a surplus commodity and those people that produce this canned boned chicken—what I am talking about are the spent fowl that are used from which this product comes—must have an outlet for this product if we are going to continue to have egg production in the United States.

Mr. Chairman, we are looking at better ways to provide that to the schools and part of the testimony I think will indicate that we have come up with a breaded product under a pilot study that we found very acceptable and perhaps DOD also will find that product acceptable, and if so, we will have a new outlet.

But, sometimes there are commodities that are in surplus that are not as desirable as others but as Mr. Gray has indicated, we ask the schools whether or not they will take it before they take it and we do not force it on them any more which is one of the changes that has come about in the food distribution system.

Mr. **Lynch**. Concerning the specification question we had a turkey company from New York in here to testify. They are one of the three of four turkey companies which seem to get quite a bit of the USDA bids.

When the chairman was asking about their products the gentleman was saying how good they were, the turkey rolls, the turkey breasts. The chairman said, "This sounds good, where can I buy it?" He said, "You can't." The chairman said, "You mean I can't purchase it?" He said, "No; that product we only sell to USDA. We don't sell to groceries or whatever." The chairman said, "Why is that?" The answer was because of USDA specifications.

He said this was such a high-grade product that if it was in the grocery stores it would be so expensive, consumers would not buy it.

If we have these specifications, granted we are buying nutritious food for the children but also worrying about cost, why do we have specifications and companies around the country who are making products and selling them to the Government—I believe 70 percent of this one company's business was with the Government—yet a consumer could not go out and buy the product and the answer is because it would be too expensive for the average consumer.

Where is the cost savings there?

Mr. **Kimbrell.** If I could address that question I will just follow it with what Mr. Ford said earlier. That is there are some problems that need addressing and there are some unique Government items being purchased and I am sure this administration is going to ask some of us that know something about specifications to examine and make recommendations in regard to those.

Mr. **Ford.** Our chicken is too cheap and our turkeys are too expensive.

Mr. **Ireland.** I would like to have you address something that we have just been talking about, the Government size small business. What disturbs me is the Department pats itself on the back for the percentage of small business yet there are a lot of people excluded from it that could probably locally provide it cheaper if you counted all the cost to the school system.

I would like to read just briefly from testimony yesterday and ask you to comment. This was under the title not surprisingly of "Competition."

> Your letter, Mr. Chairman, asks that we comment on the degree of competition in USDA purchases for the donated commodity programs. In preparation for the hearing we reviewed USDA buys and found a startling apparent lack of competition in supplies of commodities that USDA buys.
>
> I am going to run through a long list of commodities and tell you how much the USDA bought in the time period studied and how split the concentration was in companies supplying the product.
>
> You will note any number of the instances where one company was supplying 10, 50, 60, even 100 percent of USDA buy. There are a lot of reasons for this, some of which I will explore later in my testimony."

I won't bother you with the list but let me give you the kinds of examples. Time period: January 1979 to February 1980. The commodity ready to cook young turkeys. Five million pounds and four companies supplied 62 percent of the pounds bought.

There are hundreds of companies who make and could supply a similar, if not identical, product.

Same time period. USDA bought 7 million pounds of canned beef and one company supplied 70 percent. Two companies supplied 91 percent. Canned beef is not an unusual product and could be supplied by many companies.

A third one, bulk frozen ground beef. USDA bought 2 million pounds, four companies supplied 61 percent. As you have heard in prior testimony, there are 7,000 companies who can supply ground beef.

Having said that, let me complete the thought that this man makes:

> During the course of your hearings you have heard the concentration of USDA buys is not bad since some small businesses get the USDA bids. The facts are that there are some small businesses which get business from the USDA commodity program.
>
> These companies are what are called government-sized businesses. And, further, the percentage of small business companies who could participate as opposed to those who do is so small as to be ludicrous. The USDA purchase program encourages companies to be founded to operate almost exclusively to service the USDA commodity program needs.

> We believe that such a situation is unhealthy and unnecessary. We believe that it is bad national policy for the Federal Government to encourage the formation and growth of food processors who exist only to service the needs of government. These companies do not have an interest in establishing a brand identification, either on a regional or national basis nor do these companies have any kind of distribution system other than the USDA system which operate outside normal channels of trade.
>
> Too many of these companies which service USDA exist as slaves to the USDA food system and we believe the situation ought not be allowed to continue.

Address the slaves, the captive companies.

Mr. **Ford**. I submit the same situation exists today for the 80 percent that the States that buy direct, and if the 20 percent were then through the States you would have the same situation with perhaps a worse situation from companies set up totally to service State purchasing systems, especially the five or six largest States in the Nation, the one with the most significant purchases.

Your question has a two-aspect issue. The size of the bid list—people who are qualified to bid on USDA expressions of interest or expressions of attempt to sell—and the percentage of a commodity bought by a single company.

There is no question but what the Department can continue to improve, can improve the sizes of the bid list or the participants in the bid list.

My attempt to defend something is not an expression it cannot be made better but the Department has met and is continuing to meet with small businesses whenever possible to redefine the Department's specifications in such a way as to bring them more in line with commercial item descriptions to allow greater participation, by a greater number of entities, both small and large.

So that is the first half of your question to expand the participants on that list.

On the second half of the question statistics rolloff about how one company buys a horrendous percentage of a single commodity.

Again, Mr. Chairman, when you have the bid process, and I have not heard that attacked, when you have open bid process which is used in many forms of businesses in this country—a single firm has through the years developed an efficiency that it can bid on a high quality item at a lower price—then you are going to have a percentage obviously, when you have open bidding, that can be heavy, because a company has developed an expertise.

It is a unique form of American business which has been developed throughout the years. We have three or four companies producing all our defense items. People and corporations become specialized on how they can meet the qualifications put upon them by contract.

I don't think you should be surprised by that feature. The real question is how to expand the bid list so new participants can develop new techniques and devices and can get into the program.

Mr. **Ireland**. I think this is the key point. You can make sure every one of those 7,000 beef companies in that one example get a copy of the bid list and pat yourself on the back, you have expanded the bid list.

But the point is the specifications and this unreal world that you live in. Those guys are going to turn up their nose. Then you have the people who develop an expertise. They develop an expertise but then are almost a monopoly. They set up a special company, you do not get innovation. You are closing out the innovation. Mr. Kimbrell is shaking his head because he understands that.

Mr. **Kimbrell**. You are right until if you have such a unique item, Mr. Chairman, that you have to set up a different production process in order to meet that specification you are absolutely right and——

Mr. **Ireland**. Why does the Department of Agriculture need unique items?

Mr. **Kimbrell**. We do not and that is one of the things this adminstration is going to force us, we bureaucrats, to change. In the past for various reasons and some of them good reasons, we have bought in the Department of Defense, because of their military requirements for combat rations, unique items and they are justifiable to some extent.

We in the Department of Agriculture, because it was felt by some that you had to serve a specialized group of children, that you had to have a special quality product.

We came up with some specialized specifications in order to meet what was perceived to be the requirements. I think that is under review, Mr. Chairman, under this system that we are now undergoing of free enterprise, because when you do set up a unique requirement, of course you move out those people that are producing for commercial markets and we are addressing that issue. It is one of the things we in the Department of Agriculture feel strongly about and we will do better, Mr. Chairman.

Mr. **Ford**. I think that is a healthy exchange.

Mr. **Kimbrell**. I would like to add part of that in the specification is guided by the palatability factor. If we give a product out to the schools and the children don't like it or won't eat it, we have not accomplished our objective so we are constantly looking at the specifications of various products so that it accommodates that concern as well.

Mr. **Ireland**. All of us whirling around, the kids make a laughingstock out of the commodity program because they shelve these unusual products. They leave it on the plate and they go to McDonald's and get something they really like.

Ms. **Jarratt**. That product we have developed with that concern—they have developed the breaded patty out of that base product and now that is a very well accepted item.

Mr. **Ireland**. The thing is we have the free enterprise system out there that is developing all kinds of products that you are missing out on that these kids eat and are just as nutritious because in this world, goodness knows if something is not nutritious it will be headlines in the paper ahead of any foreign affairs activity.

So we know what is nutritious and we also know what kind of things the real world is developing that the kids like and yet we get into this specialized kind of thing and generate things they won't eat.

There was an unbelievable example presented yesterday about french fries. Everybody in the world buys french fries of one size. The USDA requires a 3-inch french fry that nobody can use.

You can't get them on the plate. Yet, USDA was asked about it and they said that is the way it is. We want these big french fries. It makes one wonder.

Mr. **Kimbrell**. It certainly does and I don't think that is the policy of the Department of Agriculture. I have responsibility for those french fries and if there are problems with them, this is the first time I have heard it. I will look into it.

Mr. **Ireland**. We will get you the details on the french fries. That is one thing we can get straightened out in a hurry.

Mr. **Gray**. I would like to add to that the french fry issue. This came up about a year ago with some comments about the french fries and especially in a preplate operation, where the french fry would not fit in the tray. We called in leading school districts and private industry and sat down and said, "Let's agree upon what the size of the french fry would be." Would you believe they could not agree on the size of the french fry and we ended up sticking with our specification?

Mr. **Ireland**. Here is the way it was reported:

> More about french fries. Three years ago we visited the USDA and suggested they buy shorter french fries. Why? A number of our member companies and their customers were putting together school lunches in large central kitchens and USDA french fries were too long to fit in the preformed plate. We suggested the USDA survey the States and consider buying a shorter french fry for a part of their next purchase. We were told that they could not change specifications because USDA always buys 3-inch french fries. The fact USDA was buying french fries unusable to a substantial number of schools did not make a difference. If these fries were bought to meet normal specifications and there was flexibility allowed for schools' needs there would be more satisfied school customers.

You have a substantial amount of your customers out there that could use a smaller french fry. Why not do something about it? That is inflexibility of this hybrid distribution system.

Mr. **Gray**. I agree. However, when we get a group together like that and they can't agree, one wants it larger and one wants it smaller, it makes it difficult. The whole thrust now is to develop a commercial item description which gives free and open competition. I think of the products mentioned, for example, the canned boned poultry and the turkey roll, have been two unique products we are aware have been problems and we are looking at them. But for every new product that has come along and been added to the list, we have gone to food safety service for the commercial item description approach. They develop the specification because those days of sitting down and writing up a unique specification are gone, and I agree should be gone.

Mr. **Kimbrell**. A couple of comments. It is partly related to the canned boned chicken issue. First, the McDonald McChicken kind of product, which is much more acceptable. The problem we face in the Department of Agriculture in terms of making a choice between the two is that if we have $100 million to spend, Mr. Chairman, we can get rid of a lot more chicken by buying the canned boned chicken from the marketplace and get it distributed to the schools than if we buy that breaded product that is ready for consumption within the school lunch program.

Mr. **Ireland**. But do we get to the bottom line?

Mr. **Kimbrell**. We face that issue, though, on practically every decision that we make. For example, in supplying whole carcass turkeys to the schools. We know they can't use generally whole carcass turkeys and in some cases they reprocess them. On the other hand, we are trying to help farmers and the more turkeys with the few dollars we have available that we can buy and get into the school system, then the more benefit we have been to producers.

At the same time we are trying to take into account a balance between what the schools can actually use and the dollars that we have to spend on commodities and getting as much of it into the school system. I want you to understand that is a constant question that we face and one that we don't have a definite answer to. In fact, over the years we have changed much more toward the desired kind of product. We don't want to send products out there that will be wasted by the schools. We want them to be used.

Mr. IRELAND. You haven't really touched on where the focus of our problem is. You have these conflicting requirements and instead of separating them out, they overlap so you have a cost that is substantial. The way you operate you are probably spending more money and doing less good for the farmer and surpluses.

Mr. KIMBRELL. I think the administration announced that and Mr. Ford indicated they are going to concentrate on getting the product that the producers have in surplus. That means, of course, with the dollars that will be available, that will go last to the processed items that would be more desirable. I think the schools would be happy if the Department of Agriculture furnished them a prepackaged meal in usable form. Unfortunately, that takes so many of the dollars that are available under the surplus removal program that we do not help the farmer as much as the administration would like and that is a policy decision that will be addressed.

One other point is the destination versus origin buying that the counsel raised, because it is one of the key issues that we face all the time in terms of trying to do a better job. Do you do a better job by either buying it at point of origin and then trying to get the distribution system to work, because we never know where the successful bidders are going to be and it is very difficult then to buy unless they know where it must be delivered. We do it both ways, Mr. Chairman, as you probably know.

Mr. LYNCH. I have a general question in the overall area. There is no secret we are in a very controversial area here. That is, how much of the commodities in the country are we talking about? I would like to quote briefly from a document which was put out by the Office of Planning and Evaluation at Agriculture in 1974, January 9, addressing the same problem we are discussing today. It says:

> USDA commodity acquisition and distribution programs constitute approximately four-tenths of 1 percent of total domestic demand for commodities. Donations for many commodities are less than 1 percent total domestic consumption of those commodities and for a majority of commodities is less than 2 percent.

It then says in certain instances year by year it is a much greater percentage for a particular commodity.

Would those figures be fairly close today or has the situation changed a great deal? Based on these figures it seems while the argument becomes very emotional and we tend to compact the argument in certain situations that perhaps we are not talking about the great amount of commodities that people think we are.

Mr. KIMBRELL. I will be glad to address that issue because in specific terms there are differences in terms of the effect, the impact you can have on the market, one based on the proportion of the product that you are able to buy. The other is the psychological effect you can have on the market. It is true we buy a very, very small percentage of any commodity that is on the market.

On the other hand, a concentrated buy such as we do which involves millions of pounds with an announcement that any one at any one particular time can in fact affect the market. The psychological impact of a USDA purchase can have tremendous influence in terms of what happens. There is another factor in regard to that and that is once again we are trying to help producers with the product. And if in fact we can buy some canned peaches, for example, which happens to be in surplus this year, and get the canners to can a few more peaches, then, we are helping somebody dispose of their peaches that otherwise would have to go to waste. While it is true we do have a minimal impact in terms of the quantity as a portion of the market, I think you will find that not only the psychological but the effect on the farmers themselves is much more than what those figures would indicate.

Mr. LYNCH. As long as we are discussing the subject, what is in surplus now? Is it a lengthy list?

Mr. KIMBRELL. There are several items in surplus. Again that depends on the Department's definition. I can tell you we recently made a buy of peaches and pears. If you are interested in canned fruits that is a good buy you might take a look at when you go to the grocery store. Dairy products are very much in surplus.

Mr. LYNCH. Concerning some of the statements in your prepared statement, if I might go over them. The preference reports the States are supposed to submit annually, are the States pretty good about submitting those reports or are some States lax and therefore you don't really know what they want?

Mr. GRAY. There is an overlapping answer. One is that for years we had the previous report system where a State agency would contact randomly school districts and ask them their preferences and submit them to us. It would give us a general idea of the preferred items. Then the OMB approval authority for that expired and at the same time Congress mandated advisory councils for each State. This is the first year we have had the advisory counsel reports. I was a little apprehensive about what we would receive, however, my staff tells me this is the best information we have received as far as the preferences of schools. Every State but eight submitted a report this year and this was the first year of their existence. We have been satisfied with that change.

Mr. LYNCH. Could you explain to some extent the bonus allotments of food you mentioned in your statement? Do all school districts when there is more food get that. How are districts selected?

Mr. GRAY. It is across the board. The bonus program changed this last year. Previously, price support commodities—not this school year but the previous school year—once a State used up their entitlement we said they could order those additional commodities. Then we had the big turnaround in the dairy surplus, so this current school year we told all States that they could order dairy products, butter and cheese and dry milk. There was no allocation process, it was strictly an open order process.

Mr. LYNCH. Concerning working with the Small Business Administration on the whole question of trying to include more small businesses into the system. Who was assigned in your agency to do that? Is there a particular person or office that is supposed to do that?

Mr. KIMBRELL. Once again the policy in the Department of Agriculture, insofar as each and every purchase we make, we work with the Small Business Administration through their representative that is located in the Department of Agriculture. Now each of the commodity groups works separately in that regard because there are different possibilities for each commodity. For example, in the poultry area the number of small businesses available for us to do business with is somewhat limited whereas in meat and some of the fruit and vegetable products we may find greater numbers of people in small business but we work with them on specific issues. For example, any time we are going to announce a buy we will ask them about ways to increase small business participation. But then beyond that throughout the year we constantly work with Small Business Administration to find new ways of involving them in our procurement.

Mr. LYNCH. Is that your office?

Mr. KIMBRELL. My office, yes. Involving them in this and also involving the minority firms—not just small business but the small and disadvantaged businesses into our areas and we—I think you will find the Department of Agriculture has a good record in terms of working with small business in terms of improving their participation in our program.

Mr. LYNCH. Concerning the eight pilot programs that were mentioned earlier, what is their status now? Someone told us they believed they were all still on straight cash.

Mr. GRAY. After the study, they left the cash system and went back onto commodities. Then with the recent change in the mandated study they were given the option to come back to the cash program. This coming school year we offered them the opportunity to come back on. Six of the eight elected to come on. Two said they wanted to stay with commodities.

Mr. LYNCH. Six will be back on cash and that is for what period of time?

Mr. GRAY. They will stay on for the duration of the 4-year study.

Mr. LYNCH. Mr. Topping?

Mr. TOPPING. What criteria do you use in determining when a product is surplus? I have had various versions of that. I would like to get your reaction.

Mr. GRAY. There is a price support issue and a surplus removal issue.

Mr. KIMBRELL. I will answer one part of it. That is for the nonprice supported commodities. We have essentially developed a policy within the Department of Agriculture that says that any commodity that is less than 100 percent of parity price—I am not going to discuss parity price because it is complicated—but anything less than 100 percent of parity which was a base price established back in a certain period of time with inflation built in since then, anything below 100 percent is considered surplus under the definition we have. Now that does not mean we buy all the commodities that are in surplus but it does provide the Secretary considerable leeway in determining the real surplus commodities so we can help the producers that are in trouble. Then there are the price supported commodities and my colleague, Mr. Adams, can answer that.

Mr. **Adams**. With respect to the price supported commodities when you speak of dairy products, butter, cheese, and nonfat dry milk, in the beginning of the marketing year when the Secretary sets a support price for milk, we also establish a comparable price for butter and cheese and nonfat. A price that the processor must receive for these commodities in order to be able to pay the farmer the support price for his milk. At the same time we announce those prices we also announce our willingness to buy any amounts at any time at any place that anybody wants to sell to us. So, typically, a processor who could not sell those three commodities in the market at the support level or above he will sell them to us. So there is no question as to what surplus is. That is the way we remove the surplus milk to the market. So far as the other price supported commodities are concerned mainly the grain products we use as a policy the same criterion Mr. Kimbrell does, the level of 100 percent of parity price. If the market price is at or below 100 percent of parity then we feel obligated to buy those commodities under section 416.

Mr. **Topping**. Could you achieve your results in getting rid of the surplus commodities on a cash basis? Could it be done?

Mr. **Adams**. I do not say it could not be done but there are inherent problems, one being with respect to dairy. It is not likely that a school, even with a pocketful of money, is going to buy many dairy products in the spring and summer months when schools are closing down. Unfortunately they are the very months when the surplus is produced. That is when we need to buy them. So if there were no purchases under the support program or if the schools were going to buy from us they would not be buying at the time the purchases need to be made.

Mr. **Topping**. Could you specify in our letter of credit that they buy them within a certain period of time or certain quantities at a certain period of time and then if they needed to store them they could store them locally?

Mr. **Adams**. I suppose that could be done.

Mr. **Kimbrell**. One of the things we are doing in the study is taking a look at the complete issue not just the issue of which one is cheaper in terms of getting products to the schools but hopefully the 4-year study will address the issue of whether these letters of credit or cash in lieu of can in fact be used to remove surplus in the same manner that you can do it through national controls. I think one of the important things here is the thing Mr. Ford stressed a while ago. That is you have to be careful that you do not lose the Federal control of disposal of surplus. I think that is a very, very key point and one that has to be evaluated closely as to whether or not some of these other types of systems might work. I think we do not know the answer to your question specifically but we do have some thoughts.

Mr. LYNCH. Beginning next year Kansas will still be all cash and the six school districts and then an additional 30 in the pilot program?

Mr. GRAY. Nine additional this year. The following year there will be a full complement.

Mr. LYNCH. Concerning the figures we always say 20-percent commodities for local school districts. In Senator Symms' report they studied 101 school districts and they found the average of those districts was I believe closer to 24 percent and in fact some school districts were as high as 27 percent. Now they only studied 101 school districts but do you feel that has some accuracy and that 20 percent figure may be low?

Mr. KIMBRELL. I think it is a floating figure of course and 20 percent is a floating figure based on 1 year's support because the quantity of commodities purchased is based on a set figure and that is 15.5 cents at the present time and at the end of the 1980, per meal. We try to furnish the full 15.5 cents to the States in terms of commodities and then that of course would have to relate to the total quantities of commodities being purchased which would vary depending on the relative price of commodities being purchased locally which could change depending on the mix and the mix of the products that are in surplus. That is kind of a floating figure and it is not meant to be exactly 20 percent. There is nothing that says that has to be 20 percent.

Mr. GRAY. Adding to that would be the bonus program we had that would drive the percentage up.

Mr. LYNCH. Concerning the various specifications you have you said they are constantly under review. Is that annual review or semiannual?

Mr. KIMBRELL. There is not only annual review but constant review. We may change a specification in the middle of the season if we find we have a requirement that is unenforceable or not producing the kind of product we desire. So while they do at least undergo an annual review within the Department of Agriculture many times they get increased reviews right during the production period. Although we are reluctant to change the specification during a production period we do so.

Mr. LYNCH. On declaring a surplus, that has to be the Secretary himself that declares that, is that the law? In other words can a surplus be declared without the Secretary himself signing off on it? Can one of the divisions in Agriculture declare a surplus and put it in the Federal Register? How does that work?

Mr. KIMBRELL. The Secretary can delegate to anyone he wishes the authority to do so. While in most cases I would say the Secretary has retained complete authority for the official determination of surplus commodities, especially and always I think in the price-supported commodities, he has delegated for some of the other purchase programs. For example in my area in the canned fruit area where there is no price support program and he has delegated to the Assistant Secretary, Mr. McMillan, the authority to determine when products are in surplus from the standpoint of purchasing under section 32.

Mr. **Adams**. I might add the thought that a few years ago when grain prices were extremely high, relatively high and they were above 100 percent of parity, we felt we were unable to continue buying under section 416 as a surplus situation. The Congress passed section 480 and under that law we were directed or authorized to go into the market and pay the market price for those commodities in order to keep the program going.

Mr. **Lynch**. Just a couple of final questions and then we will suspend and wait for the chairman to get back. Is your office willing to work with the efficacy office at SBA to try to clear up some of the questions we have about how we can get more small business into this system?

Mr. **Kimbrell**. My office is always ready to work with any sister agency in terms of carrying out the goals of the administration. What you are really doing here is asking us to determine some goals, but we certainly will work with them in any way that we can and within the context of the administration's policy.

Mr. **Lynch**. Just to clarify the situation, I do not think we have to set goals if the subcommittee working with the Small Business Administration can make a fairly convincing case that perhaps with a few regulatory changes would allow more small businesses to effectively compete in the system. You would be open to considering those suggestions?

Mr. **Kimbrell**. I will certainly be interested in considering those suggestions. Once again I have to emphasize the fact I think the administration is going to base some constraints on us in terms of additional costs. In other words we buy the product now and anything that we do including increasing setasides probably would add to the cost of the product and that will be the administration's policy determination.

Mr. **Ford**. What it comes down to is anticipated budget. There is significantly less money to carry on programs. SBA is faced with the same situation that we are.

Mr. **Topping**. May I interject a question. You indicate that it would impose additional cost to have setasides for small business. Are you implying that setasides for small business would cost more?

Mr. **Kimbrell**. I am not discussing the cash-in-lieu-of system at this moment. What I am doing is saying within the Federal purchase program setting aside may reduce the number of bids that we have available. If it does that you will reduce competition and could raise the price of the commodity to the Federal Government and in this case of course we would be concerned about the number of dollars available for that purpose. I am not talking about the cash-in-lieu-of. I do not know whether or not that would increase or decrease small business participation. I am not addressing that issue in any way.

Mr. **Topping**. Do you think it is costing the Government more because small business is participating in your procurement program?

Mr. **Kimbrell**. Absolutely not; as long as they are doing so under the open bid process. The point I am making is that if you restrict it to small businesses we have been told that you will probably increase the size of the bids coming in which would cost more for the same quantity of products.

Mr. TOPPING. In other words setaside for small business would cost the Government more?

Mr. KIMBRELL. It would cost the Government more. That is generally right, in terms of our purchase programs, but only if you decrease the firms that are willing to bid at lower prices.

Mr. ADAMS. If I can give you a concrete example of our experience where in some commodities we set aside a certain percentage of the business for nobody but small businesses. Small businesses can bid on the nonsetaside portion also. So in many cases you will have the same firms bidding on both the setaside portion and the nonsetaside portion. You will have them bidding and have us accepting from the same firm two different prices, a higher price from the small business on the setaside portion and a lower price from that same firm on the nonsetaside portion. So I think that answers your question.

Mr. LYNCH. To clarify what I was saying, our main thrust is to allow as many small businesses to get in and compete without setaside. In other words see if we can write the regulations so a thousand more businesses come in, let them compete.

Mr. KIMBRELL. And we are interested in anything that will do that.

Mr. FORD. That is why this approach expanding the list is a major problem.

Mr. LYNCH. Is USDA going to take a look at these destination purchase charges for items other than chicken and turkey? You are planning to review all the different costs and the different programs are you not?

Mr. KIMBRELL. Under the study we will address all the cost and we have been addressing all the costs insofar as we have control over them. Now, I think something needs to be made clear here. We recognize there are some costs sometimes at the State and local level. There are inefficiencies over which we have no authority or other than, shall we say, jawboning control. I think a good example here might be in terms of Oklahoma with its extra supply of some products. We cannot keep them from getting that extra supply of commodities. It is up to them to take action to indicate they do not wish any more of that commodity unless they disposed of what they have. Insofar as we can we take into account the total cost and will do so in this study from the standpoint not only of what it costs the Federal Government but what it costs right up to the point of delivery. I think the chairman has made what point very effectively that the ultimate in terms of cost to the taxpayers is to what it costs once you get it on the plate and not only there but how much plate waste you have and that will be taken into account.

Mr. LYNCH. Thank you, Mr. Chairman. That is all the questions I have.

Mr. IRELAND. We have some people in the audience who have testified previously and we want to give them a chance to say something if they want to at this point. Is there anybody here that would like to ask a question?

TESTIMONY OF MICHAEL GIUFFRIDA, GIUFFRIDA, CALVERT & ASSOCIATES

Mr. **Giuffrida.** I am Mr. Michael Giuffrida from Giuffrida, Calvert & Associates. As the chairman stated, our firm represents the National Frozen Food Association. Just a couple of brief points. I am always struck when the subject of disaster relief comes up. My impression has been that a lot of the disaster relief the Department provides is in the form of food stamps. I always wondered whether it was more efficient when you provided a commodity to provide a 25-pound bag of flour to a family that is displaced or whether you should provide them with a loaf of bread as to which was a more efficient use of commodities. With regard to the subject of the committee's hearings, that being increasing competition. The people whom I represent would like to see the Department take a look at buying more commodities on a State destination basis. We feel that that would allow for increased competition not only on the part of processors but on the part of wholesale distributors who are large enough to be able to supply the needs of a State area or a portion of a State area but not large enough to supply the needs of the Nation. In that respect I simply point out for the record that in the States of Florida and New York and Maryland, the States that buy food for their State institutions buy them on the basis of competitive bid and buy them from wholesale distributors in those States. Just quickly the way that works the State puts out its bids and let us say it is for a citrus product, say orange juice, and there are five distributors in the area to be serviced who get the bids. They call up whoever their supplier may be and get a price for government contract. They turn around and decide what kind of margin they want to work on and they bid that price to the State delivered. The processor or processors that are working through the distributors, the State is getting it shipped into a warehouse that is temperature controlled getting it delivered in temperature controlled trucks rather than school buses and pickup trucks and I am told the prices are at least comparable if not cheaper than the price shipped into a State warehouse and subsequently, delivered separately. Our suggestion is that the Department takes a look at more stated destination purchases than they are doing now. I guess the final point I want to make is with regard to the budget cutting reference that commodities are easier to cut than cash by way of gratuitous comment I think it became apparent to me looking at OMB recommendations this year the Office of Management and Budget did not much care if it was 15 cents worth of commodities or 15 cents worth of cash, they both became equally susceptable to the budget cutting suggestion to the administration.

Mr. **Gray.** May I comment on his editorial comment. On the disaster, the food stamp versus the commodities. The food stamp—just a clarification—that is for home consumption but if a disaster hits at midnight or folks have to evacuate their houses and they go into a sheltered area that is when the commodities are used for onsite preparation as opposed to taking commodities home. As to the looking at destination purchasing, this triagency task force that was mentioned is looking at that and wants to take a serious look at it in a couple of areas. Also I would like to point out we have been providing some technical assistance as mentioned by

Assistant Secretary Jarratt on helping States and it is interesting to note when you go in and help them with their distribution systems that is where you get the unique systems that are outside the normal commercial channels. We are finding in many cases it is more cost effective to have them use the normal channel of trade once the commodities get into the State. We are looking at using distributors to make distribution.

Mr. IRELAND. Which is proving the point we are trying to make. Here you are inventing a wheel that is already out there saying, there is a distribution system out there that we can suggest to the State that they use. All we are saying is, it has been out there all the time. I suggest to you that there is a solution here that I think ought to be looked at. From your point of view maybe you do not need this big monsterous distribution system.

Mr. GRAY. I think the whole key is the price support surplus removal aspect, whether the integrity of that is controlled through a cash-in-lieu or voucher system. I submit that was what the weakness of that last study was. It looked at the bottom line and said it is cheaper to produce a meal through local purchasing than to give them commodities. Then you get into a situation where someone uses the butter we donate. They price it at the full cost and put it in a meal and it drives the cost of the meal up when in fact is was a complete donation. We do not have a unique distribution system. We use railroads and we use trucks that everyone else uses. We do have some States where they have their own distribution system.

Mr. IRELAND. You do have a unique distribution system in that you have *x* number of employees worrying about having some way of delivering food. So it is a unique system.

Mr. GRAY. We are looking forward to the results of the study because our gut feeling is you are going to have to have an administrative network to control vouchers or letters of credit if you are going to maintain the integrity of the price support rule in which case would still have a network there. But when the study is over we will have a better fix for which is most cost efficient.

Mr. ADAMS. Another point should be made with respect to the distribution system. I am not referring to that part beginning with the State but up until the time it gets to the State. The system we use even if you did away with the commodity distribution program, the distribution program, the distribution system we have to get to the States is not going to disappear. Because the main purpose of that system and the main work of that system is price support to farmers. We are still going to maintain our Kansas City commodity office and our people here in Washington to issue loading orders to a warehouse for grain when a farmer forfeits. We are still going to have to pay. We are going to have to maintain the same system we have today. We will have the same relationship with railroads, with trucks, with warehouses, with farmers that we have now. The point is that the distribution system we use for the school lunch program is largely the same one we use for price support. As long as there is a price support program that part of the distribution system will always be with us.

Ms. JARRATT. I would agree with that. We are piggyback onto what is already there for our activities.

Mr. Adams. We do not have a system set up just for the school lunch program.

Mr. Ford. The request was for USDA to continue to study it. It is a reasonable request and we shall do so. As to OMB comments, it was gratuitous. But I submit having dealt with tobacco and dairy and cotton and other industries that cash in lieu of commodities would be an item to be attacked in the future in years ahead.

Mr. Ireland. Thank you. We appreciate your coming.

Mr. Suwanski.

TESTIMONY OF GENE J. SUWANSKI, DIRECTOR OF PURCHASING, CHICAGO SCHOOL SYSTEM

Mr. Suwanski. My name is Gene Suwanski. I am the director of purchasing for the Chicago school system. I have already submitted for the record some testimony relative to the position of the Chicago school board on House bill 3077. I am not here to respond to that. I want to bring up the one issue which is my concern. If any of the legislative actions recommended out of the subcommittee here were to include a recommendation to go to a letter of credit or commodity allowance or a cash in lieu of program, then consideration should be given to the purchasing process whereby the local agency is allowed specification exceptions to the current practices at the Federal USDA level. What may be a proper specification nationwide in the best interest of the national market, may not be locally. For that reason, with any recommendation to go to local purchasing we would ask that consideration be given to our ability to provide for specifications relative to packaging, delivery scheduling, market timing, terms of sale, and general conditions of contracts which would be issued under the State guidelines or the State code. My basic problem is that I have to be the manager of all of the changes that you are considering. I have to be referee. I have to go to the marketplace and find out what is being offered, what can be offered and then I have to bring it back with a recommendation to buy or not to buy at this time. If I make a mistake I get very quick and prompt feedback. The sidewalk outside of 228 North La Salle Street is being worn thin by citizens who will tell us what is a good buy in the marketplace and how best to spend their tax dollars. We are very much in touch with the community and its feeling toward the nutritional aspects. We feel that local purchasing especially in our district is a good alternative. But we do not want to presume what is the best way to do it nationwide. We do appreciate the importance of price supports and surplus removal. For that reason my comments are only related to the purchasing process. I do not want to address any nutritional aspects, or USDA operations. Thank you.

Mr. Ireland. Thank you, Mr. Suwanski. That is right to the heart of the matter. Does anybody have any comment along that line?

Mr. Gray. I would comment that I think any system that would lay a specification, a set specification on school districts would be unmanageable. I would think we would have to identify the product but certainly not the identical specification. We could not expect to implement a system like that. I agree with what he is saying.

Mr. **Ireland**. Is there anyone else?

TESTIMONY OF TOM WENNING, COUNSEL, NATIONAL FOOD BROKERS ASSOCIATION

Mr. **Wenning**. Tom Wenning, counsel for National Food Brokers Association. I have a couple of questions regarding the purchase of commodities, in the statement you made, reference to commodity purchases having already begun in the spring. Do you have a list of those products that have already been let or up for bid?

Mr. **Ford**. We do. Not necessarily with us. There have not been an extensive amount. We are not deep into the program yet.

Mr. **Wenning**. You mentioned you already bought surplus peaches and pears.

Mr. **Kimbrell**. Yes, and apricots.

Mr. **Wenning**. Will the California medfly—will those purchases have any impact on the open market purchases of those products in the future. In other words could we find ourselves in a shortage like we found ourselves with peanut butter.

Mr. **Ford**. I was away from the medfly for 2 hours this morning and I was so enjoying it. It is too early to say. It is a small area quarantined. Fruit under certain conditions can still move out of the quarantined area. It is too early to answer. The potential is devastating. The actuality is very limited today.

Mr. **Ireland**. Anybody else? Thank you very much. Anyone else that wants to be heard. I appreciate the indulgence of USDA. Ms. Jarratt, I want to thank you, you and the gentlemen were just outstanding.

Ms. **Jarratt**. Thank you. We are happy to do it. As we indicated we are anxious to work with you as we review the system the feasibility of various alternatives and the improvement of what we have in current operation. Thank you.

Mr. **Ireland**. I would say in closing we will be working with you on any suggested changes that have the focus of small business involved. I would like to have everyone know and I think that it is important, we made reference to OMB as though it is an adversary of the Congress and your agency.

Mr. **Ford**. We did not say that, sir.

Mr. **Ireland**. Any focus on budget cutting they come out in the forefront, but it seems to me that in the spirit of what we are trying to do that cutting has been too long in coming. We hear from people that are concerned about the cutbacks in the school lunch program. If we can do this more efficiently right off the top, $300 million worth more efficiently, that means at the present level of funding that that is that much more that can actually go to the children. If we can cut out plate waste that is even more. So what one might look at though it is directed to cutting the school lunch program is really doing the kind of thing we should have all been doing over the years. When Mr. Kimbrell says that programs must be more efficient he is doing something to help the needy school children in this country and I think that is important and I think the world should know it.

Ms. **Jarratt**. I think one of the greatest problems with the reduction for child nutrition was that the program experienced a reduction of 45 percent, which is much higher than most of our programs did and was probably more difficult for the program to deal with in the short term. To sustain a reduction of that magnitude over a 3-year period is easier to accommodate than when you have to make a change in your operation from 1 year to the other. Our concern within the Department has been how we can best manage so we will get the most food out there.

Mr. **Ireland**. Of course if you go immediately to 100-percent cash in lieu of commodities it will cut that 40-percent down because the small businessman will jump in and do it efficiently. You are all very kind. I appreciate it. Thank you and the committee is adjourned.

[Whereupon at 12:23 p.m. the subcommittee adjourned, to reconvene subject to call of the Chair.]

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